DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1987

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

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PART 3

THE JUDICIARY AND FISCAL YEAR 1986 SUPPLEMENTAL APPROPRIATION REQUESTS

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DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1987

Wednesday, February 26, 1986.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

WITNESSES

CHARLES CLARK, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

WILLIAM L. HUNGATE, DISTRICT JUDGE, U.S. DISTRICT COURT, EASTERN DISTRICT OF MISSOURI

L. RALPH MECHAM, DIRECTOR, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

EDWARD V. GARABEDIAN, ASSISTANT DIRECTOR

ROBERT PELLICORO, CHIEF, CLERKS DIVISION

Mr. Smith. This morning we begin our hearings on the fiscal 1987 budget request for the Judiciary. The total request is for $1,227,784,000, and this is an increase of $202,973,000 above the total appropriations enacted for 1986 after they are adjusted for sequestration of $42,114,000 under Public Law 99-177.

We will insert in the record at this point pages i-iii from the justification materials, which provide a summary of the fiscal year 1987 budget request for the Judiciary.

[The summary material follows:]

Mr. SMITH. The budget request for FY 1987 for the seven appropriation items under "Courts of Appeals, District Courts, and other Judicial Services" is $1,144,935,000. This amount represents an increase of $186,350,000 above amounts appropriately for FY 1986, adjusted for sequestration under P.L. 99-177. We shall insert the justifications submitted in support of these requests in the record at this point.

[The justifications follow:]

THE JUDICIARY

Summary of Budgetary Requirements for Fiscal Year 1987

(Dollar amounts in thousands)

	Appropriated 1986	Amounts Sequestered	Budget Authority 1986	Proposed Supplementals	Adjusted Appropriation 1986	Proposed Increase	Estimate 1987
Supreme Court	$ 17,275	$ -699	$ 16,576	$ 46	$ 16,622	$ 464	$ 17,086
Study of Construction of Office Building	...	...	...	2,000	2,000	-2,000	...
Court of Appeals for the Federal Circuit	5,500	-191	5,309	...	5,309	1,981	7,290
Court of International Trade	6,400	-243	6,157	...	6,157	1,389	7,546
Courts of Appeals, District Courts, and Other Judicial Services:							
Salaries of Judges	103,000	-787	102,213	...	102,213	2,787	105,000
Salaries of Supporting Personnel	474,900	-20,421	454,479	1,200	455,679	78,621	534,300
Defender Services	61,800	-2,657	59,143	...	59,143	15,642	74,785
Fees of Jurors and Commissioners	43,400	-1,866	41,534	3,800	45,334	2,866	48,200
Expenses of Operation and Maintenance of the Courts	135,000	-5,805	129,195	...	129,195	31,305	160,500
Space and Facilities	147,000	-6,321	140,679	...	140,679	41,521	182,200
Court Security	32,750	-1,408	31,342	...	31,342	8,608	39,950
Total for Courts of Appeals, District Courts, and Other Judicial Services	997,850	-39,265	958,585	5,000	963,585	181,350	1,144,935
Administrative Office of the United States Courts	29,200	-1,256	27,944	...	27,944	4,156	32,100
Federal Judicial Center	9,600	-413	9,187	...	9,187	1,039	10,226
Bicentennial Expenses, the Judiciary	.....	.....	.....	...	...	1,500	1,500
Total, The Judiciary	1,065,825	-42,067	1,023,758	7,046	1,030,804	190,480	1,221,284
United States Sentencing Commission	1,100	-47	1,053	...	1,053	5,447	6,500
GRAND TOTAL	$1,066,925	$-42,114	$1,024,811	$7,046	$1,031,857	$195,326	$1,227,183

THE JUDICIARY
Summary of Positions

	1985 Actual	1986 Estimate	1987 Estimate
Supreme Court	350	351	352
Court of Appeals for the Federal Circuit	84	87	93
Court of International Trade	101	101	99
Courts of Appeals, District Courts, and Other Judicial Services	16,516	17,461	18,850
Administrative Office of the United States Courts	573	583	617
Federal Judicial Center	94	94	94
Subtotal, The Judiciary	17,718	18,677	20,105
United States Sentencing Commission	45	50	59
Total number of full-time permanent positions	17,763	18,727	20,164
Total compensable workyears:			
Full-time equivalent employment	17,649	18,253	19,442
Full-time equivalent of overtime and holiday hours	14	12	12

THE JUDICIARY
COMPARATIVE SUMMARY OF OBLIGATIONS BY OBJECT CLASSIFICATION
(in thousands of dollars)

	1985 Actual	1986 Estimate	1987 Estimate
Personnel services and benefits			
11 Personnel compensation:			
Full-time permanent	$ 484,822	$ 545,113	$ 583,886
Other than full-time permanent	24,426	17,528	17,998
Other personnel compensation	429	423	423
Special personal services payments	48,601	52,530	53,201
Total personnel compensation	558,278	615,594	655,508
12 Personnel benefits	61,264	74,201	83,407
13 Benefits for former personnel	284	365	365
Total personnel services and benefits	619,826	690,160	739,280
Contractual services and supplies			
21 Travel and transportation of persons	29,247	32,247	34,317
22 Transportation of things	1,118	1,238	1,280
23 Standard level user charges	134,983	144,850	180,081
23 Rental payments to others	391	716	814
23 Communications, utilities, and miscellaneous charges	37,219	48,447	51,028
24 Printing and reproduction	6,441	7,718	8,424
25 Other services	98,935	112,072	129,132
26 Supplies and materials	7,638	9,332	10,960
Total contractual services and supplies	315,972	356,620	416,036
Acquisition of capital assets			
31 Equipment	56,926	63,156	66,580
32 Lands and structures	1	3	...
Total acquisition of capital assets	56,927	63,159	66,580
Grants and fixed charges			
41 Grants, subsidies, and contributions	5,310	6,095	6,597
Subtotal	998,035	1,116,034	1,228,493
Sequestered pursuant to P.L. 99-177	...	-42,114	...
Total obligations	998,035	1,073,920	1,228,493
Unobligated balance	+42,380	-42,063	-709
Budget authority	$1,040,415	$1,031,857	$1,227,183

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SUMMARY RELATING FISCAL YEAR 1987 BUDGETARY REQUIREMENTS TO 1986 APPROPRIATIONS

(Dollar amounts in thousands)

	1986								
Appropriation	Appropriation (enacted to date)	Sequestered	Estimate	Proposed Program Supplemental	Budget Authority	Adjustments to Base	Program Changes	Increase in Requirements	Fiscal Year 1987 Request
Salaries of Judges.............	$103,000	($ 787)	$102,213	$	$102,213	$ 2,787	$ ...	$ 2,787	$ 105,000
Salaries of Supporting Personnel....................	474,900	(20,421)	454,479	1,200	456,679	56,541	22,080	78,621	534,300
Defender Services..............	61,800	(2,657)	59,143	.....	59,143	15,642	...	15,642	74,785
Fees of Jurors and Commissioners................	43,400	(1,866)	41,534	3,800	45,334	2,866	...	2,866	48,200
Expenses of Operation and Maintenance of the Courts....	135,000	(5,805)	129,195	.....	129,195	9,777	21,528	31,305	160,500
Space and Facilities...........	147,000	(6,321)	140,679	.....	140,679	37,840	3,681	41,521	182,200
Court Security.................	32,750	(1,408)	31,342	.....	31,342	2,638	5,970	8,608	39,950
TOTAL.........	$997,850	($39,265)	$958,585	$ 5,000	$963,585	$128,091	$53,259	$181,350	$1,144,935

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES
SUMMARY OF PERMANENT POSITIONS

Appropriation	Fiscal Years 1980	1981	1982	1983	1984	1985	Estimated 1986	1987	1987 over 1986 Number of Positions	Percent Change
Salaries of Judges[1]	648	648	647	663	748	747	979	979	...	...
Salaries of Supporting Personnel[2]	9,697	9,920	10,212	10,726	11,433	12,489	16,010	17,421	+1,411	+8.8
Defender Services	285	306	312	341	364	384	416	431	+15	+3.6
Bankruptcy Courts, Salaries and Expenses	1,951	2,096	2,486	2,495	2,775[1]	2,842	...	...	N/A	N/A
Court Security	...	...	...	...	...	13	15	19	+4	+26.7
Special Rail Reorganization Court[3]	41	41	41	41	41	41	41	...	-41	-100.0
TOTAL	12,622	13,011	13,698	14,266	15,361	16,516	17,461	18,850	+1,389	+8.0

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[1] Includes 232 bankruptcy judgeships in 1986 and 1987.

[2] Includes 2,420 positions for bankruptcy in 1986 and 2,886 in 1987.

[3] Eight positions are required for the operation of this Court in 1987. They will be funded by the appropriation "Salaries of Supporting Personnel."

General Statement

This section provides an overview of the Judiciary's fiscal year 1987 budget request for the accounts which relate to the courts of appeals, district courts, and bankruptcy courts. The caseload of these courts is an important factor in determining the budget requests for the accounts included under this heading and is, therefore, shown on the following pages. Details of each account are provided in the appropriate section of this budget.

The estimate for fiscal year 1987 is $1,144,935,000 an increase of $181,350,000 or 18.8 percent over fiscal year 1986. Adjustments to base, i.e., the increased cost of travel, telephone rates, space rental, printing, supplies, lawbooks, and furniture and furnishings, account for $128,091,000 or 70.6 percent of this increase. Program changes account for $53,259,000 or 29.4 percent of the requested increase. Included in the request are 1,422 new positions and the deletion of 41 positions from the Special Rail Reorganization Court appropriation. Eight of these positions have been included in the appropriation "Salaries of Supporting Personnel". The net change of 1,389 positions represents an increase of 8.0 percent over 1986.

Twelve Regional Courts of Appeals

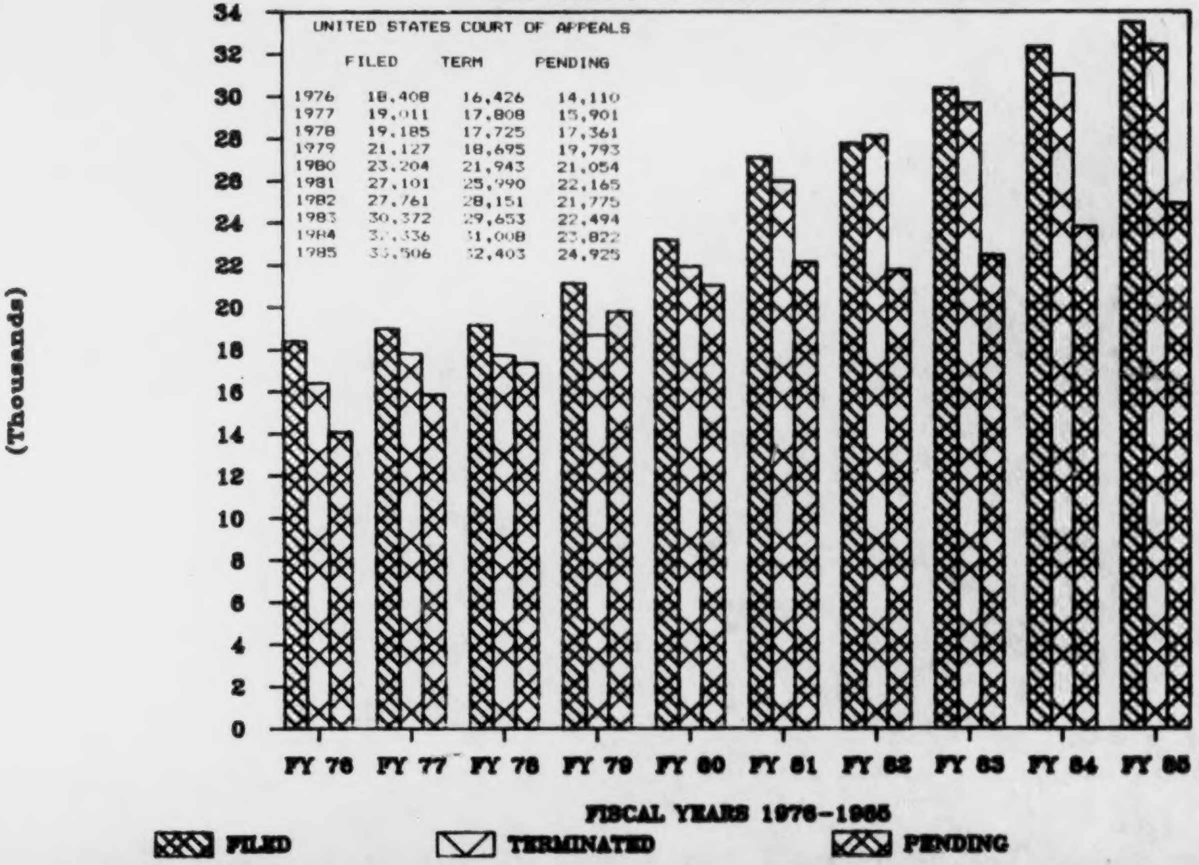
The overall workload in the United States courts of appeals grew substantially during the twelve month period ended September 30, 1985. A record 33,506 appeals were docketed in the appellate courts during this period, up 3.6 percent from the 32,336 appeals docketed in 1984. Total case dispositions increased by 4.5 percent during the past twelve months, up from 31,008 appeals in 1984 to 32,403 appeals in 1985. Due to the large influx of new filings during the year, the overall pending caseload in the 12 circuit courts grew to 24,925 appeals on September 30, 1985. This year's pending total represents a 4.6 percent rise over the 23,822 appeals pending one year ago.

In 1985, five of the eight separate categories of appeals had increases in filings. Private civil appeals and state prisoner petitions reflected the largest growth, rising by 884 cases and 367 cases, respectively. Much of this growth was concentrated in two areas -- state habeas corpus petitions (up 362 appeals) and non-prisoner civil rights actions (up 349 appeals).

The following graph shows courts of appeals caseload as well as increases in caseload from 1976.

UNITED STATES COURTS OF APPEALS

CASES FILED, TERMINATED AND PENDING



UNITED STATES COURT OF APPEALS

	FILED	TERM	PENDING
1976	18.408	16,426	14,110
1977	19.011	17.808	15,901
1978	19.185	17,725	17,361
1979	21.127	18,695	19,793
1980	23.204	21,943	21.054
1981	27,101	25,990	22,165
1982	27,761	28,151	21,775
1983	30,372	29,653	22.494
1984	32,336	31,008	23,822
1985	33,506	32,403	24,925

United States District Courts

In 1985 the district courts' caseload (civil and criminal) filings increased by 7.1 percent while terminations rose 7.9 percent and cases pending increased by 2.9 percent.

During the twelve month period ended September 30, 1985, the number of civil filings increased by 19,132 cases, from 259,549 to 278,681.

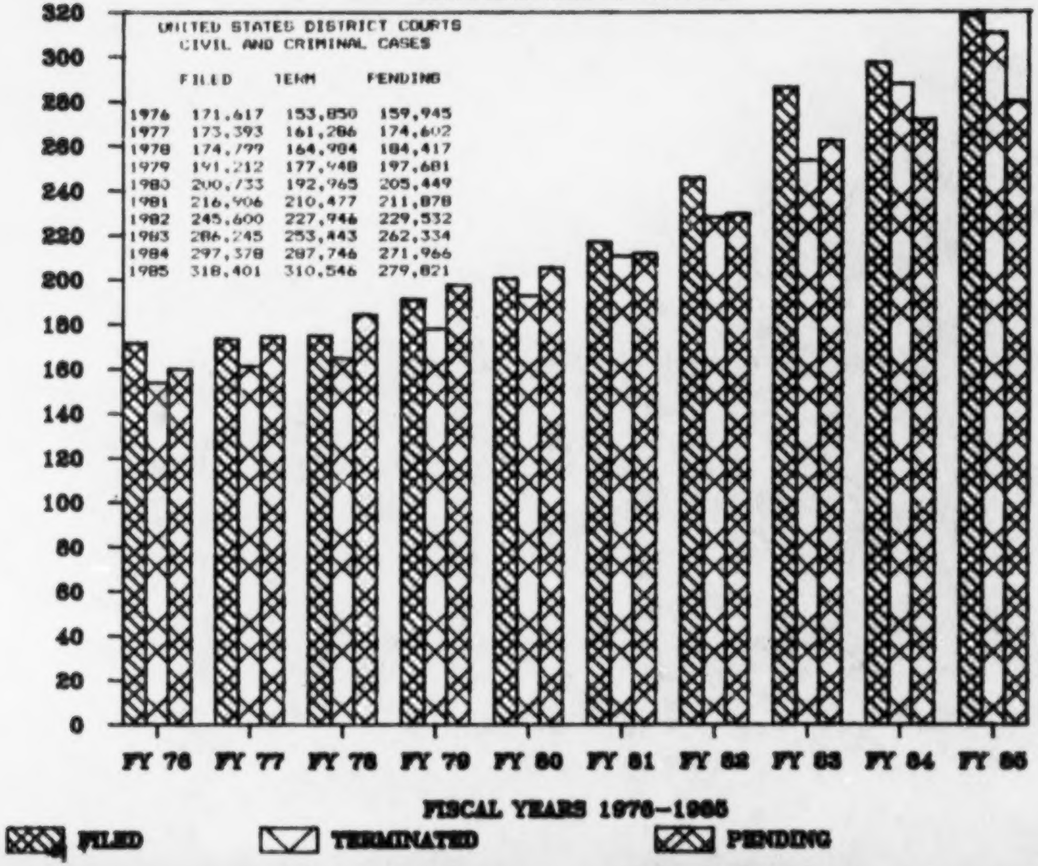
In 1984, the courts experienced a significant decrease in student loan recovery cases. In 1985, however, the federal government again began to initiate these suits, which increased by 8,936 cases. Suits for the recovery of overpayments of veterans' benefits and personal injury product liability (including asbestos) cases rose by 3,308 and 3,079 respectively. The districts reporting the greatest number of student loan cases were in Florida, Middle; Illinois, Northern; and Minnesota. California, Northern; Texas, Western; and California, Central recorded a significant number of the recovery of overpayment of veterans' benefits filings and many of the personal injury product liability (including asbestos) cases were filed in Massachusetts; Pennsylvania, Eastern; Texas, Eastern; and Mississippi, Southern.

Criminal cases filed in the United States district courts during the twelve month period ended September 30, 1985, increased 5.0 percent from 37,829 cases filed last year (including transfers) to 39,720 cases this year. Case terminations increased 5.3 percent with 38,262 cases terminated this year compared to 36,262 cases in 1984. Criminal filings increased in five major offense categories and decreased in six during the twelve month period ended September 30, 1985. The largest percentage increase in a major offense category this period was in the sex offense category, up 22 percent. Over 60 percent of the filings this year were for traffic violations (8,193); Drug Abuse Prevention and Control Act (DAPCA) violations (6,852); fraud (5,748); and larcency (3,646). Violations of federal statutes were up 12 percent, with the majority of the increase reported in violations of Agricultural Acts, up 74 percent and the Food and Drug Act, up 31 percent. These increases were offset somewhat by a 53 percent decline in prosecutions for Antitrust violations.

The following graph and tables show combined civil and criminal caseload as well as a breakdown of district court workload by civil and criminal activity through 1985.

UNITED STATES DISTRICT COURTS

CIVIL AND CRIMINAL CASES



UNITED STATES DISTRICT COURTS
CIVIL AND CRIMINAL CASES

	FILED	TERM	PENDING
1976	171.617	153,850	159,945
1977	173.393	161,286	174.602
1978	174.799	164,984	184,417
1979	191.212	177,948	197,681
1980	200.733	192,965	205,449
1981	216.906	210,477	211,878
1982	245.600	227,946	229,532
1983	286.245	253,443	262,334
1984	297,378	287,746	271,966
1985	318.401	310.546	279,821

Civil Cases

Fiscal Year	Authorized Judgeships	Filed	Terminated	Pending
1940.......	183	34,734	37,367	29,478
1950.......	218	54,662	53,259	55,603
1960.......	245	59,284	61,829	61,251
1970.......	401	87,321	80,435	93,207
1971.......	401	93,396	86,563	100,040
1972.......	400	96,173	95,181	101,032
1973.......	400	98,560	98,259	101,333
1974.......	400	103,530	97,633	107,230
1975.......	400	117,320	104,783	119,767
1976.......	399	130,597	110,175	140,189
TQ.........	398	32,504	27,012	144,584
1977.......	398	133,929	118,711	159,802
1978.......	399	140,544	130,289	170,057
1979.......	516	160,016	146,389	183,684
1980.......	516	171,346	164,359	190,671
1981.......	516	185,626	180,772	195,525
1982.......	515	212,503	196,069	211,959
1983.......	515	250,855	219,779	243,035
1984.......	515*	259,549	251,484	251,100
1985.......	575	278,681	272,356	257,425
Percent change 1985 over:				
1940.......	214.2	702.3	628.6	739.4
1950.......	163.8	409.8	411.4	363.0
1960.......	134.7	370.1	340.5	320.3
1970.......	43.4	219.1	238.6	176.2
1980.......	11.4	62.6	65.7	35.0

Criminal Cases**

Fiscal Year	Authorized Judgeships	Filed	Terminated	Pending
1940.......	183	33,401	33,861	9,553
1950.......	218	37,720	37,414	8,181
1960.......	245	29,828	29,864	7,691
1970.......	401	39,959	36,819	20,910
1971.......	401	43,157	39,582	24,485
1972.......	400	49,054	48,101	25,438
1973.......	400	42,434	43,456	24,416
1974.......	400	39,754	41,526	22,644
1975.......	400	43,282	43,515	22,411
1976.......	399	41,020	43,675	19,756
TQ.........	398	10,303	9,923	17,911
1977.......	398	39,464	42,575	14,800
1978.......	399	34,255	34,695	14,360
1979.......	516	31,196	31,559	13,997
1980.......	516	29,387	28,606	14,778
1981.......	516	31,280	29,705	16,353
1982.......	515	33,097	31,877	17,573
1983.......	515	35,390	33,664	19,299
1984.......	515*	37,829	36,262	20,866
1985.......	575	39,720	38,190	22,396
Percent change 1985 over:				
1940.......	214.2	18.9	12.8	134.4
1950.......	163.8	5.3	2.1	173.8
1960.......	134.7	26.5	27.9	191.2
1970.......	43.4	- 0.6	3.7	7.1
1980.......	11.4	35.2	33.5	51.4

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*Does not include 61 additional judgeships created by the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law 98-353.

**Includes transfers under Rule 20 F.R.Cr.P.

United States Bankruptcy Courts

During the twelve-month period ended September 30, 1985, the number of petitions filed under the Bankruptcy Code (including 13 special chapters) increased to 383,510, up 10.6 percent from the 346,609 (including 15 special chapters) filed during this same period a year ago. The number of petitions terminated rose to 351,651, an increase of 46,877 over 1984. Despite the 15.4 percent rise in terminations, the number of bankruptcy petitions pending rose to 623,938, up 5.4 percent from the 592,079 petitions pending last year. The table below provides a comparison of the bankruptcy petition workload during the twelve-month periods ended September 30, 1984 and 1985.

U. S. Bankruptcy Courts
Bankruptcy Code (Including Special Chapters) Petitions
Filed, Terminated, and Pending
During the Twelve Month Periods Ended
September 30, 1984 and 1985

Year	Filings	Terminations	Pending
1984..............	346,609	304,774	592,079
1985..............	383,510	351,651	623,938
Percent Change 1985 over:			
1984..............	10.6	15.4	5.4

Nationwide, non-business filings rose by 30,772 petitions, an increase of 11 percent above the 283,656 filed in 1984. Business petitions rose by 6,179 petitions to 69,132, up 10 percent from the 62,953 filed last year. As the number of overall filings has risen, so has the number of filings reported under each chapter. Chapter 11 reorganizations rose to 22,602 in 1985, up 13 percent above the 20,018 filed in 1984. Chapter 13 debt adjustments increased 11,526 petitions (13 percent) to 102,967. The largest increase was reported in Chapter 7 liquidations, up 22,793 above the 235,135 filed in 1984.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF JUDGES

Summary of Requirements

Appropriation 1986 (enacted to date)	$103,000,000
Sequestered pursuant to P.L. 99-177	-787,000
Budget Authority, 1986	102,213,000
1987 budget estimate	105,000,000
Proposed Increase	2,787,000

Appropriation Language

SALARIES OF JUDGES

For salaries of circuit judges; district judges (including judges of the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands); judges of the United States Claims Court; bankruptcy judges; and justices and judges retired from office or from regular active service under title 28, United States Code, sections 371, 372, and 373; [$103,000,000] $105,000,000

SALARIES OF JUDGES
FISCAL YEAR 1987
(Dollar amounts in thousands)

		1987 Request	
	Summary of changes:	Perm. Pos.	Amount
	Appropriation 1986 (enacted to date)	979	$103,000
	Sequestered pursuant to P.L. 99-177	...	-787
	Budget Authority, 1986	...	102,213
Page No.	Adjustments to base and built-in changes:		
5.6	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+787
5.6	2. Restoration of reduced fiscal year 1986 budget authority resulting from the carry forward of an unobligated balance	...	+923
5.6	3. Annualization of expenses associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984	...	+519
5.7	4. Social Security taxes	...	+330
5.7	5. Anticipated increase in the number of senior judges	...	+506
5.8	6. Discontinuance of part-time bankruptcy judgeships pursuant to the Bankruptcy Amendments and Federal Judgeship Act of 1984	...	-278
	Total increases requested	...	+2,787
	Total appropriation requested, 1987	979	$105,000

SALARIES OF JUDGES

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Salaries and benefits	979	$104,779	979	$105,000	979	$105,000	...	$.....
Sequestered pursuant to P.L. 99-177	...	-787	...	.....	...	.....	...	.....
Total Obligations	979	103,992	979	105,000	979	105,000	...	.....
Unobligated balance, start of year	...	-1,779	...	.....	...	.....	...	.....
Budget Authority	979	$102,213	979	$105,000	979	$105,000	...	$.....

Object Classification
(In thousands of dollars)

	1986 Estimate	1987 Estimate	Difference (+) or (-)
11 Personnel compensation	$ 95,941	$ 96,143	$ +202
12 Personnel benefits	8,838	8,857	+19
Subtotal	104,779	105,000	+221
Sequestered pursuant to P.L. 99-177	-787	.....	+787
Total Obligations	$103,992	$105,000	$+1,008

Relation of Obligations to Outlays
(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net..........	$104,779	$-787	$103,992	$105,000	$+1,008
Obligated balance, start of year...	1,027	...	1,027	-8	-1,035
Obligated balance, end of year.....	.....	8	8	.....	-8
Outlays....................	$105,806	-779	$105,027	$104,992	$ -35

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions:			
Circuit judgeships..................................	156	156	...
District judgeships.................................	575	575	...
Claims Court judgeships.............................	16	16	...
Bankruptcy judgeships...............................	232	232	...
Total compensable workyears:			
Full-time equivalent employment......................	1,237*	1,246*	+9

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*Includes 20 workyears for the United States Claims Court and 2 judge workyears pursuant to 28 U.S.C. 372(b).

General Statement

Funds appropriated under this heading are for the salaries and related personnel benefits of all United States circuit and district judges, judges of the United States Claims Court, bankruptcy judges, and all justices and judges who have retired from office or from regular active service in pursuance of law. For basic statutory authorities, reference is made to the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Justification of Changes

The sum of $105,000,000 is requested for fiscal year 1987, an increase of $2,787,000 over the budget authority for fiscal year 1986. Provision has been made for the salaries and related benefits of 1,246 judges: 727 active circuit, district, and Claims Court judges; 227 bankruptcy judges; 2 judges pursuant to 28 U.S.C. 372(b); 278 retired (senior) judges; 8 retired judges pursuant to 28 U.S.C. 371(a); and 4 recalled judges for the Claims Court.

The increase in budgetary requirements in fiscal year 1987 results from restoration of reduced fiscal year 1986 budget authority, annualization of expenses associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984, increased cost of Social Security taxes, an anticipated increase in the number of senior judges, and discontinuance of part-time bankruptcy judgeships pursuant to the Bankruptcy Amendments and Federal Judgeship Act of 1984.

Of the 731 authorized Article III judgeships, 156 are located in the United States courts of appeals and 575 are located in the United States district courts (including Guam, Virgin Islands, and Northern Mariana Islands). On September 30, 1985, there were 88 vacancies; 21 in the courts of appeals, and 67 in the district courts. During fiscal year 1985, there were 100 judgeship vacancies on the average.

The following table shows the number of judgeships, the average number of vacancies, and the average number of active judges on the roll since 1975 and estimates for 1986 and 1987:

Fiscal Year	Judgeships	Average Vacancies	Average Number of Active Judges
1975	497	19	478
1976	496	21	475
1977	495	29	466
1978	496	24	472
1979	648	113	488
1980	648	73	575
1981	648	45	603
1982	647	36	611
1983	647*	30	633
1984	732*	40**	643
1985	731*	100	647
Estimates			
1986	731*	26	721
1987	731*	20	727

*Excludes 16 judgeships for the United States Claims Court and 1 judge in 1984 and 2 judges in 1985 - 1987 pursuant to 28 U.S.C. 372(b).

**Reflects the 85 judgeships created on July 10, 1984 when P.L. 98-353 was signed by the President.

The following table shows the number of bankruptcy judgeships, the average number of vacancies, and the average number of judges estimated for 1986 and 1987:

Fiscal Year	Bankruptcy Judgeships	Average Vacancies	Average Number of Bankruptcy Judges
1986	232	5	227*
1987	232	5	227

*Does not include an estimated 3 workyears for part-time bankruptcy judgeships which will be discontinued not later than July 10, 1986 (see Item 5).

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($787,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $787,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Restoration of Reduced Fiscal Year 1986 Budget Authority Resulting from the Carry Forward of an Unobligated Balance ($923,000)

In the supplemental appropriations bill for fiscal year 1985, the Congress authorized funds in certain appropriations to remain available for obligation until the end of fiscal year 1986 (September 30, 1986). This was done with the intent that the balances in those appropriations at the end of fiscal year 1985 would be available for obligation in fiscal year 1986. As a result, the fiscal year 1986 appropriations requests were subsequently reduced by the estimated amount of the fiscal year 1985 unobligated balances. Therefore, in order to restore the appropriation base to the 1985 level, the sum of $923,000 has been included in this request. This represents the unobligated balance which was carried forward into 1986 for obligation.

Item 3. Annualization of Expenses Associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984 ($519,000)

The Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law 98-353, created 85 new judgeships, 24 in the courts of appeals and 61 in the district courts. The Act also liberalized the retirement provisions for justices and judges. The annual cost of implementing this legislation for the appropriation "Salaries of Judges" is projected at $9,000,000.

The first and second year costs of this legislation were included in a fiscal year 1985 supplemental appropriation and the 1986 appropriation request. The final impact of this legislation is projected to occur in fiscal year 1987 ($519,000), during which a full 85 active judgeship workyears (an increase of 6 over fiscal year 1986) and an average of 19 additional senior judges (no increase over 1986) are contemplated.

Following is a summary of these costs:

	Permanent Positions	Total Cost	Fiscal Year Budget Impact		
			1985 Supplemental	1986 Increase	1987 Increase
		(Dollars in thousands)			
A. New Judgeships:					
24 Circuit Judgeships @ $83,200..............	24	$1,997	$ 541	$1,316	$140
61 District Judgeships @ $78,700.............	61	4,801	1,301	3,164	336
Subtotal..................................	85	6,798	1,842	4,480	476
Benefits @ 9.0 percent.......................	...	612	166	403	43
Total.....................................	85	7,410	2,008	4,883	519
B. Change in Retirement Provision:					
4 Circuit Judges @ $83,200...................	...	333	230	103	...
15 District Judges @ $78,700.................	...	1,181	808	373	...
Subtotal..................................	...	1,514	1,038	476	...
Benefits @ 5.0 percent.......................	...	76	52	24	...
Total.....................................	...	1,590	1,090	500	...
Grand Total, Salaries of Judges..........	85	$9,000	$3,098	$5,383	$519

Item 4. Social Security Taxes ($330,000)

The sum of $330,000 is requested as a result of the passage of the "Social Security Amendments of 1983," Public Law 98-21, approved April 20, 1983. This legislation made certain changes affecting the financing of the Social Security System. It placed judges of the United States courts of appeals and district courts, judges of the United States Claims Court, and United States bankruptcy judges under the coverage of the Social Security System with respect to remuneration paid to them after December 31, 1983. The sum requested includes funds to provide for: (1) the wage base (maximum) upon which the Social Security taxes are assessed is projected to increase to $42,000 (the budget currently contains funds for a base of $37,800); and (2) the tax rate will increase to 7.15 percent. This percentage increase is for Medicare and impacts on all judiciary employees.

Item 5. Anticipated Increase in the Number of Senior Judges ($506,000)

When a judge retires from the office pursuant to 28 U.S.C. 371(a), he or she receives an annuity for life equal to the salary in effect at the date of retirement. When a judge retains the office but retires from regular active service pursuant to 28 U.S.C. 371(b), or retires on disability pursuant to 28 U.S.C. 372(a), he or she continues to receive the salary of the office for life. Many of the judges who retire under the provisions of 28 U.S.C. 371(b) continue to render substantial judicial service for a number of years, notwithstanding their retirement.

As of September 30, 1985, 59 judges were eligible to retire; 34 judges will become eligible in fiscal year 1986; and another 24 judges in fiscal year 1987, for a total of 117 potential retirees. Of the 117 potential retirees, it is estimated that such number of these judges will take senior status so as to raise the average number of senior judges by 6. The sum of $506,000 is requested for the salaries and benefits of the successors to these retiring judges ($477,000 for personnel compensation and $29,000 for related benefits).

The following table reflects the upward trend in retirements:

Fiscal Year	Average Number of Retired (Senior) Judges Pursuant to 28 U.S.C. 371(b) and 372(a)	Average Number of Retired Judges Pursuant to 28 U.S.C. 371(a)
1975	159	5
1976	160	5
1977	172	6
1978	178	6
1979	179	6
1980	188	5
1981	198	4
1982	219	4
1983	237	5
1984	242	6
1985	258	8
Estimates		
1986	272	8
1987	278	8

Item 6. Discontinuance of Part-Time Bankruptcy Judgeships Pursuant to the Bankruptcy Amendments and Federal Judgeship Act of 1984 ($-278,000)

The 1986 appropriation request for "Salaries of Judges" included $18,413,000 to fund the salaries and benefits of 232 full-time bankruptcy judgeships and approximately 7 full-time equivalent workyears of part-time bankruptcy judgeships. The House and Senate reduced the amount requested by $471,000 to take into account increased lapses in full-time and part-time judgeships during 1986.

Section 106(b)(1) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 provides for the discontinuance of part-time bankruptcy judgeships that existed at the time the Act took effect, not later than July 10, 1986. The salaries and benefits of the part-time judgeships included in the 1986 request, offset to the extent of the increased lapses described above, are being deducted in establishing the budgetary requirements for fiscal year 1987 ($237,000 for personnel compensation and $41,000 for related benefits).

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

Summary of Requirements

Appropriation 1986 (enacted to date)	$474,900,000
Sequestered pursuant to P.L. 99-177	-20,421,000
Proposed program supplemental	1,200,000
Budget Authority, 1986	455,679,000
1987 budget estimate	534,300,000
Proposed Increase	78,621,000

Appropriation Language

SALARIES OF SUPPORTING PERSONNEL

For the salaries of secretaries and law clerks to circuit, district, and bankruptcy judges, magistrates and staff, circuit executives, clerks of court, probation officers, pretrial service officers, staff attorneys, librarians, the supporting personnel of the United States Claims Court, and all other officers and employees of the Federal Judiciary, not otherwise specifically provided for, [$474,900,000] $534,300,000: *Provided*, That the secretaries and law clerks to judges shall be appointed in such number and at such rates of compensation as may be determined by

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

Appropriation Language (con't.)

the Judicial Conference of the United States: *Provided further*, That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties.

SALARIES OF SUPPORTING PERSONNEL
FISCAL YEAR 1987

(Dollar amounts in thousands)

Page No.		1986 Request Perm. Pos.	1986 Request Amount
	Summary of changes:		
	Appropriation 1986 (enacted to date)	15,810	$474,900
	Proposed program supplemental	200	1,200
	Sequestered pursuant to P.L. 99-177	...	-20,421
	Budget Authority, 1986	16,010	455,679
	Adjustments to base and built-in changes:		
6.8	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+20,421
6.8	2. Restoration of reduced fiscal year 1986 budget authority resulting from the carry forward of an unobligated balance	...	+14,698
6.8	3. Restoration of the reduction of the fiscal year 1986 appropriation base	...	+ 2,350
6.8	4. Annualization of new personnel authorized in fiscal year 1986	...	+ 8,860
6.8	5. Annualization of expenses associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984	...	+ 1,127
6.9	6. Cost of within-grade salary advancements	...	+ 4,798
6.9	7. Social Security taxes	...	+ 2,725
6.9	8. Promotions for newly appointed probation and pretrial services officers pursuant to the Judiciary Salary Plan	...	+ 1,422
6.10	9. Special Rail Reorganization Court	+ 8	+ 140
	Subtotal, adjustments to base and built-in changes	+ 8	+56,541
	Program changes:		
6.11	10. Five new full-time magistrates, conversion of two part-time magistrates to full-time status (including supporting personnel), and other adjustments	+ 26	+ 1,165
6.19	11. Supporting personnel for circuit executives	+ 10	+ 413
6.21	12. Deputy clerks for courts of appeals:		
	Additional positions based on staffing formula	+ 66	+ 915
	Deputy clerks for bankruptcy appellate panels	+ 5	+ 112
6.22	13. Deputy clerks for district courts:		
	Additional positions based on work measurement formula	+ 157	+ 2,176
	Pro se law clerks and clerical support	+ 13	+ 223
	Systems administrators	+ 35	+ 648
6.26	14. Deputy clerks for bankruptcy offices	+ 466	+6,458
6.29	15. Probation and pretrial services:		
	Officers	+ 329	+ 5,133
	Clerk-stenographers	+ 162	+ 1,834
6.40	16. Supporting personnel for senior judges	+ 30	+ 1,003
6.40	17. Preargument conference program	+ 12	+ 457
6.42	18. Legal assistants for magistrates	+ 11	+ 393
6.43	19. National court library system	+ 20	+ 403
6.48	20. Temporary law clerk and secretarial support for judicial emergencies	...	+ 567
6.49	21. Court Interpreters	+ 6	+ 180
6.50	22. Electronic sound recording program	+ 55	...
	Subtotal, program changes	+ 1,403	+22,080
	Total increases requested	+ 1,411	+78,621
	Total appropriation requested, 1987	+17,421	$534,300

SALARIES OF SUPPORTING PERSONNEL

Obligation by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986* Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Salaries and benefits	16,010	$490,798	16,018	$512,220	17,421	$534,300	+1,403	$+22,080
Sequestered pursuant to P.L. 99-177	...	-20,421	...	.....	...	.....	...	.....
Total Obligations	16,010	470,377	16,018	512,220	17,421	534,300	1,403	22,080
Unobligated balance, start of year	...	-14,698	...	.....	...	.....	...	.....
Budget Authority	16,010	$455,679	16,018	$512,220	17,421	$534,300	+1,403	$+22,080

*Includes proposed program supplemental of 200 deputy clerk positions and $1,200 thousand ($1,025 thousand for personnel compensation and $175 thousand for related benefits) for three months.

Analysis by Object and Class of Personnel
(Dollar amounts in thousands)

Personnel Compensation:	1986 Estimate* Perm. Pos.	1986 Estimate* Amount	Adjustments to Base Perm. Pos.	Adjustments to Base Amount	Program Changes Perm. Pos.	Program Changes Amount	1987 Estimate Perm. Pos.	1987 Estimate Amount
Claims Court	60	$ 1,950	...	$ 30	...	$	60	$ 1,980
Magistrates' offices:								
Magistrates	272	19,993	...	137	7	546	279	20,676
Staff	545	14,652	...	220	30	801	575	15,673
Circuit executives' offices	56	2,369	...	36	10	353	66	2,758
Clerks' offices:								
Courts of appeals	473	10,098	...	358	71	878	544	11,334
District courts	3,889	91,372	...	3,217	230	2,604	4,119	97,193
Bankruptcy offices	2,637	54,697	...	5,330	496	5,520	3,133	65,547
Probation offices	3,238**	95,319	...	3,280	491	5,954	3,729	104,553
Pretrial services	184	4,311	...	645	...	.....	184	4,956
Judges' staffs	3,577	106,009	...	2,191	30	1,385	3,607	109,585
Court reporters	589	20,364	...	251	...	.....	589	20,615
Central legal staffs	229	6,054	...	139	12	391	241	6,584
Librarians	164	3,177	...	51	20	344	184	3,572
Other personnel	97	2,252	8	162	6	154	111	2,568
TOTAL PERSONNEL COMPENSATION	16,010	432,617	8	16,047	1,403	18,930	17,421	467,594
Personnel benefits	...	58,181	...	5,375	...	3,150	...	66,706
Sequestered pursuant to P.L. 99-177	...	-20,421	...	+20,421	...	.....	...	.....
Total Obligations	16,010	470,377	8	41,843	1,403	22,080	17,421	534,300
Unobligated Balance, Start of Year	...	-14,698	...	14,698	...	.....	...	.....
Budget Authority	16,010	$455,679	8	$56,541	1,403	$22,080	17,421	$534,300

*Includes proposed program supplemental of 200 deputy clerk positions and $1,200 thousand ($1,025 thousand for personnel compensation and $175 thousand for related benefits) for three months.

**119 of these positions have been or will be allocated to probation offices in the demonstration districts for the performance of pretrial services.

Relation of Obligations to Outlays
(In thousands of dollars)

	1986			1987	Difference (+)
	Total	Sequestered	Estimate*	Estimate	or (-)
Obligations incurred, net	$490,798	$-20,421	$470,377	$534,300	$+63,923
Obligated balance, start of year	15,450	...	15,450	20,369	+4,919
Obligated balance, end of year	-20,369	484	-19,885	-22,139	-2,254
Outlays	$485,879	$-19,937	$465,942	$532,530	$+66,588

Personnel Summary

	1986* Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions	16,010	17,421	+1,411
Total compensable workyears: Full-time equivalent employment	15,347	16,449	+1,102

*Includes proposed program supplemental.

General Statement

This appropriation is for the payment of the compensation and related benefits of all supporting personnel of the United States courts of appeals, district courts, and the United States Claims Court with the exception of Federal public defenders and their staffs. It provides for the administrative and legal aides required to assist the judges and magistrates in the conduct of hearings, trials, and other judicial functions, and to staff the component offices of the courts, including the Federal Probation Service. This appropriation also includes the salaries and benefits of bankruptcy staff positions which were transferred into this account by the Congress in fiscal year 1986. For data as to the classes of personnel covered and the basic statutory authorities, reference is made to the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Proposed Language Change

It is proposed that the appropriation language be amended to exclude attorneys serving in the capacity of preargument counselors in the Second, Sixth, and Eighth Circuits from the ratio of one staff attorney to each authorized judgeship. This change is based on classification audits performed by the Administrative Office and is supported by the Committee on Court Administration which recommended "divorcing preargument attorneys and supporting staff from the (current) 1:1 ratio...and to classify and pay individual incumbents separately from staff attorneys." A detailed justification of the Preargument Conference Program is contained on page 6.40.

No Change in Staffing for the United States Claims Court

During the court year, October 1, 1984 to September 30, 1985, the Claims Court disposed of 2,182 complaints representing 774 claimants. Except for a number of these cases, in which no given amounts were claimed, the total amount claimed was $784,282,372. Of the cases disposed of, the Claims Court rendered judgments for claimants in the sum of $56,497,424 of which $34,983,467 carried interest. A number of these judgments were based on settlements between the parties. Also the Claims Court rendered judgments for the United States on counterclaims or offsets in the amount of $5,091,746. Dispositions under its non-monetary jurisdiction consisted of 1 renegotiation case which included judgments for the United States in the sum of $1,000,000, disposition of 1 tax exempt case, and the disposition of 41 contract cases seeking injunctive or declaratory relief. The Clerk each January pursuant to 28 U.S.C. 791(c) transmits to the Congress a report of the business of the Court showing the names of the claimants, the amounts involved, the nature of the case, and the disposition thereof.

Justification of Changes

An appropriation of $534,300,000 is requested for fiscal year 1987, representing an increase of $78,621,000 over the amount appropriated for fiscal year 1986. Excluding adjustments to the base, the net increase in budgetary requirements (program changes) is $22,080,000, or 4.8 percent. Provision has been made for 1,403 new positions which include: 37 positions for magistrates' offices; 797 deputy clerks for the courts of appeals and district courts (including bankruptcy); 491 Probation Service personnel; and 78 positions for other supporting personnel of the courts. Details with regard to the uncontrollable increases and the proposed program increases for fiscal year 1987 follow.

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($20,421,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $20,421,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Restoration of Reduced Fiscal Year 1986 Budget Authority Resulting from the Carry Forward of an Unobligated Balance ($14,698,000)

In the supplemental appropriations bill for fiscal year 1985, the Congress authorized that funds in certain appropriations remain available for obligation until the end of fiscal year 1986 (September 30, 1986). This was done with the intent that the balances in those appropriations at the end of fiscal year 1985 would be available for obligation in fiscal year 1986. As a result, the fiscal year 1986 appropriations requests were subsequently reduced by the estimated amount of the fiscal year 1985 unobligated balances. Therefore, in order to restore the appropriation base to the 1985 level, the sum of $14,698,000 has been included in this request. This represents the unobligated balance which was carried forward into 1986 for obligation.

Item 3. Restoration of the Reduction to the Fiscal Year 1986 Appropriation Base ($2,350,00)

In the appropriations bill for fiscal year 1986, the Congress reduced the 1986 appropriation base in order to achieve spending levels required by the budget reconciliation process. The sum of $2,350,000 has been included in this request to restore the appropriation base to the 1985 level ($2,035,000 for personnel compensation and $315,000 for related benefits).

Item 4. Annualization of New Personnel Authorized in Fiscal Year 1986 ($8,860,000)

In fiscal year 1986, the Congress authorized 608 new positions for the courts of appeals and district courts. The sum appropriated for these positions was less than the recurring annual cost, having been reduced to account for the estimated savings (lapses) resulting from the delay in filling new positions. The difference between the part-year appropriation and the full-year costs of these positions is $5,460,000. This request also includes $3,400,000 to provide for the estimated annual recurring salary and benefit costs of 200 additional deputy clerk positions proposed in a fiscal year 1986 program supplemental.

Item 5. Annualization of Expenses Associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984 ($1,127,000)

The Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law 98-353, created 85 new judgeships, 24 in the courts of appeals and 61 in the district courts. It also made changes in the retirement provisions for Federal judges. The creation of the additional judgeships and a projected increase in the number of senior judges pursuant to this legislation resulted in the addition of 541 supporting personnel at an annual cost of $17,788,000. The first and second year costs of this legislation were included in a fiscal year 1985 supplemental appropriation and the 1986 appropriation request. These amounts, together with the additional cost of annualizing the 541 positions in 1987, are shown below.

(Dollars in Thousands)

Object Classification	Fiscal Year Budget Impact 1985 Supple-mental	 1986 Increase	 1987 Increase	Total Annual Recurring Cost
Personnel Compensation	$4,747	$ 9,494	$ 963	$15,204
Personnel Benefits	801	1,619	164	2,584
Total	$5,548	$11,113	$1,127	$17,788

The sum of $1,127,000 is therefore requested for fiscal year 1987, representing the third year impact of creating 541 new positions in 1985.

Item 6. Cost of Within-Grade Salary Advancements ($4,798,000)

All graded personnel in the courts of appeals, district courts, and the United States Claims Court who receive a satisfactory performance rating, pursuant to the salary plan for Judiciary personnel, are entitled to periodic step increases in compensation corresponding with those provided by Chapter 53 of Title 5, United States Code. It is estimated that those salary advancements will cost $4,798,000 during fiscal year 1987 ($4,102,000 for personnel compensation and $696,000 for related benefits). The estimate is based on past experience and takes into account savings due to turnover of personnel and the filling of vacancies at lower rates of pay. This item also includes the estimated cost, based on past experience, of salary increases that will be granted to certain part-time magistrates by the Judicial Conference in recognition of uncontrollable changes in volume of their respective workloads.

Item 7. Social Security Taxes ($2,725,000)

The sum of $2,725,000 is requested as a result of the passage of the "Social Security Amendments of 1983," Public Law 98-21, approved April 20, 1983. This legislation made certain changes affecting the financing of the Social Security System. In addition to the Civil Service Retirement System contribution, the employing agency is now required to contribute to Social Security for all new federal employees hired after December 31, 1983. Therefore, each year it will be necessary to budget additional funds for Social Security taxes for positions authorized prior to January 1, 1984, which become vacant and are filled by new federal employees. During fiscal year 1987, it is estimated that 1,156 positions will become vacant and that 898 of these will be filled by new federal employees. This estimate takes into consideration those positions which have become vacant once already since January 1, 1984.

The sum requested includes additional funds for two other provisions: (1) the wage base (maximum) upon which the Social Security taxes are assessed is projected to increase to $42,000 (the budget currently contains funds for a base of $37,800); and (2) the tax rate will increase to 7.15 percent. This percentage increase is for Medicare and impacts on all judiciary employees.

Item 8. Promotions for Newly Appointed Probation and Pretrial Services Officers Pursuant to the Judiciary Salary Plan ($1,422,000)

Pursuant to the Judiciary Salary Plan, probation and pretrial services officers, as a rule, enter on duty in grade JSP-9. After completing one year of satisfactory service, they are eligible for promotion to grade JSP-11. After completing a year's satisfactory service at grade JSP-11, they become eligible for promotion to the journeyman level--grade JSP-12. These promotions are granted based on the recommendations of the employing courts.

The additional 168 probation officers authorized for fiscal year 1985 were included in the budget at the entrance salary for grade JSP-9. Provision was made in the 1986 budget for upgrading those positions from JSP-9 to grade JSP-11. In fiscal year 1987, funding will be required to upgrade these positions from grade JSP-11 to JSP-12. In addition, funding will be required to upgrade the 100 probation and pretrial service officers, approved in fiscal year 1986, from grade JSP-9 to JSP-11. The total cost of these promotions is $1,422,000 ($1,242,000 for personnel compensation and $180,000 for related benefits).

Item 9. Special Rail Reorganization Court (8 positions, $140,000)

The Special Court was established by the Regional Rail Reorganization Act of 1973 (Rail Act) primarily to order the conveyance of rail properties designated by the Final System Plan and to place a value on each of such properties. Nearly 19,000 miles of railroad, terminal properties and rolling stock were conveyed. The Railroad Revitalization and Regulatory Reform Act of 1976 (RRRR Act) amended the Rail Act and expanded the Special Court's duties by creating original and exclusive jurisdiction in the Special Court for a variety of actions (Section 209(e)). The Special Court's Rail Act original and exclusive jurisdiction was further expanded by Section 1162(a) of the Northeast Rail Service Act (NRSA) of 1981, Subtitle E of Title XI, Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), to include proceedings arising under NRSA. In 1982 the Judicial Panel on Multidistrict Litigation assigned three additional judges to the Special Court to handle cases arising under NRSA. The court now sits in two panels, a General Panel dealing with questions arising under the Rail Act and Special Panel dealing with questions arising under NRSA. The jurisdiction based on NRSA will continue to be an ongoing source of activity for the Special Court, although few additional cases based on Section 209(e) of the Rail Act are expected. As of September 30, 1985, 29 civil actions and 9 miscellaneous actions were pending.

The annual cost of operating the Special Court is currently funded from a no-year appropriation. In fiscal year 1987, it is estimated that $209,000 will be available for this purpose from the unobligated balance carried forward from fiscal year 1986, of which $168,000 will provide for the salaries and benefits of the supporting personnel and $41,000 for the miscellaneous expenses of the Special Court. Based on projected costs, the unobligated balance will be insufficient to maintain the current level of operations by the Special Court. Instead of seeking new budget authority for the no-year appropriation, the Judiciary is requesting approval to fund the expenses of the Special Court from the general appropriations for the Judiciary. This consolidation would offer several advantages: first, it would reduce the number of appropriation accounts for the Judiciary; second, it would simplify accounting procedures.

The total fiscal year 1987 estimated cost of the salaries and benefits of the Special Court is $308,000. Therefore, the sum of $140,000 ($127,000 for personnel compensation and $13,000 for related benefits), is requested. The balance of $168,000 will be available from the no-year appropriation. In addition to the cost of salaries and benefits of the 8 authorized support positions, funds have been included for other expenses of the Special Court under the heading "Expenses of Operation and Maintenance of the Courts."

Item 10. Five New Full-Time Magistrates, Conversion of Two Part-Time Magistrates to Full-Time Status (Including Supporting Personnel), and Other Adjustments (26 positions, $1,165,000)

The United States magistrate system is a relatively new program in the Federal Judiciary. The Federal Magistrates Act of 1968 was "designed to create an upgraded lower tier judicial office" and "to cull from the ever-growing workload of the United States district courts matters that are more desirably performed by a lower tier of judicial officers" (S. Report No. 371, 90th Cong., 1st Sess., 11 (1967); H.R. Report No. 1629, 90th Cong., 2nd Sess., 12 (1968)). In 1976 and 1979 the Congress enacted legislation (Public Laws 94-577 and 96-82) which clarified and further expanded the jurisdiction of magistrates, and enabled the judges of the district courts to assign a greater number and variety of duties to magistrates in civil and criminal cases. The program has been highly successful in its formative years, and the range of duties being assigned to United States magistrates continues to increase.

The magistrates system is still evolving in the district courts across the country; additional positions are authorized gradually on a case-by-case basis. The Federal Magistrates Act establishes a policy in favor of full-time, rather than part-time, positions (28 U.S.C. 633(a)(3)). The Judiciary Committee of the Senate, moreover, has referred to "the expressed Congressional intent to create and maintain a system of as many full-time magistrates as possible" and has strongly urged the Judicial Conference "to create more full-time positions by consolidations of part-time offices (and) by greater use of the authority to assign additional duties under Section 636(b) of the Act" (S. Report 92-1065, August 16, 1972, p. 4). The Judicial Conference supports this goal, as evidenced by the fact that the Conference has expanded the number of authorized full-time magistrate positions and reduced the number of part-time positions. To illustrate, since 1979, the number of full-time magistrate positions has increased from 196 to 272 while the number of part-time magistrate positions has declined from 191 to 184.

The Judicial Conference of the United States, in accordance with the provisions of the Federal Magistrates Act, determines the number, locations, and salaries of full-time and part-time magistrates "as the expeditious administration of justice may require" (28 U.S.C. 633(c)). Positions are created and salaries established by the Conference in the light of the recommendations of the Director of the Administrative Office, the district courts concerned, and the judicial councils of the circuits.

In 1983 the General Accounting Office issued a report on the Federal magistrates system and found that the system had become an "important and integral" part of the Judiciary. The report recommended that the Judicial Conference encourage "qualified districts to request new (magistrate) positions." The budget submission contained herein includes funds for additional seven full-time magistrate positions, and is indicative of the strong support of the system by the Judiciary generally.

Duties Performed

The jurisdiction of United States Magistrates is set forth in the Federal Magistrates Act of 1968, as amended in 1976 and 1979. Generally, a magistrate's duties can be classified into four broad categories: (a) those duties which had formerly been handled by United States commissioners (primarily initial proceedings in Federal criminal cases); (b) the trial of criminal misdemeanors upon the consent of the defendants; (c) the trial of civil cases upon the consent of the litigants;

and (d) "additional duties" delegated by the judges of the district courts to assist them in expediting the civil and criminal caseloads of the courts (primarily references of pretrial motions and the conduct of pretrial conferences and other proceedings).

The basic jurisdictional provisions for United States magistrates are found at section 636 of Title 28, United States Code.

The Act contemplates freeing the time of judges for the actual trial of cases by transferring certain judicial functions to magistrates. The district courts, on the whole, are responding very positively to the intent of Congress by progressively delegating "additional duties" in civil and criminal cases to magistrates. These delegations are considered by the Judicial Conference in establishing additional full-time positions, and in a few instances in adjusting salaries of part-time magistrates.

The workloads of United States magistrates have been shifting steadily towards the important and time-consuming "additional duties" authorized under 28 U.S.C. 636(b) and (c). During the year ended June 30, 1985, the volume of "additional duty" proceedings handled by magistrates increased by 14.4 percent over 1984. The total, moreover, has risen 361.8 percent since 1976, as shown in the following table:

"Additional Duties" Under 28 U.S.C. 636(b) Disposed of by United States Magistrates
During the Years Ending June 30, 1976 - 1985

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
Criminal Cases										
Motions....................	7,861	7,301	9,806	11,185	12,778	18,652	20,119	21,330	22,819	24,766
Pretrial conferences......	5,397	4,787	4,435	3,784	3,433	3,199	3,214	3,529	2,900	2,837
Evidentiary hearings......	N/A	N/A	665	560	719	857	975	916	997	1,146
Other proceedings.........	3,644	6,416	6,209	3,919	3,432	3,934	3,650	3,477	3,241	3,921
Civil Cases										
Motions....................	9,583	17,687	28,820	34,311	41,700	51,015	58,150	72,813	78,825	91,497
Pretrial conferences......	17,559	22,787	24,093	24,231	22,531	23,109	28,314	29,695	33,207	36,695
Evidentiary hearings......	N/A	N/A	874	783	977	928	898	863	1,091	1,298
Prisoner petitions........	8,231	8,515	11,620	12,062	11,578	14,817	16,551	18,543	18,157	20,235
Social security reviews...	1,480	3,449	4,059	4,074	4,213	4,101	4,532	6,588	10,534	14,101
Special master references.	684	871	1,239	590	475	564	588	545	599	684
Other proceedings.........	2,761	3,381	3,366	1,851	2,578	3,128	2,810	8,070	8,528	9,810
Total......................	57,200	75,194	95,186	97,350	104,414	124,304	139,801	166,369	180,896	206,990

Upon designation of the district court and consent of the defendant, United States magistrates have plenary trial jurisdiction and sentencing authority in Federal misdemeanor cases, i.e., those Federal criminal offenses for which the prescribed penalty does not exceed imprisonment for one year. Magistrates disposed of 90,757 misdemeanors including petty offenses, during the year ending June 30, 1985, an increase of 7.4 percent from the 84,475 cases terminated in 1984, nearly equal to the 90,166 trial jurisdiction cases handled in 1976, as shown in the following table:

Criminal Trial Jurisdiction Cases
(For the Years Ending June 30, 1976 - 1985)

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
Petty offenses (6 months/$500)	78,474	85,880	87,654	87,460	77,780	80,944	73,136	79,039	73,199	76,978
Misdemeanors other than petty offenses (1 year)...........	11,692	17,181	14,893	12,807	12,622	14,208	13,589	14,504	11,276	13,779
Total misdemeanors............	90,166	103,061	102,547	100,267	90,402	95,152	86,725	93,543	84,475	90,757

United States magistrates perform all of the duties formerly handled by the United States commissioners. Under authority of 28 U.S.C. 636(a), magistrates issue search warrants and arrest warrants, conduct initial appearance and bail proceedings, and conduct preliminary examinations (probable cause hearings) and post-indictment arraignments. The volume of these less time-consuming duties increased by 9.9 percent last year, as shown in the following table:

Preliminary Criminal Proceedings
(For the Years Ending June 30, 1976 - 1985)

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
Search warrants..............	6,068	5,203	4,491	4,606	4,756	5,442	6,170	6,555	7,372	9,776
Arrest warrants (including summonses).................	22,531	20,467	16,134	13,145	11,273	11,634	11,702	12,010	12,401	13,178
Bail proceedings.............	48,616	50,302	49,574	46,086	43,964	44.281	46,978	48,516	48,788	52,430
Preliminary examinations.....	8,869	7,385	7,133	5,961	5,604	6,267	4,650	4,681	4,854	4,922
Arraignments.................	18,694	21,799	21,956	19,329	17,512	18,981	21,296	22,995	23,646	24,826
Other........................	N/A	N/A	N/A	4,302	3,922	5,754	7,662	7,693	12,276	15,011
Total........................	104,778	105,156	99,288	93,429	87,031	92,359	98,458	102,450	109,337	120,143

A magistrate who has been specifically designated by the district court to exercise civil trial jurisdiction under 28 U.S.C. 636(c) may, upon the consent of the litigants, conduct any and all proceedings in a civil case, including trial of the case. During the year ending June 30, 1985, the volume of such cases completed by magistrates increased by 4.8 percent over 1984.

Civil Trial Jurisdiction Cases
(For the Years Ending June 30, 1977 - 1985)

Cases Completed	1977	1978	1979	1980	1981	1982	1983	1984	1985
With trial...........	325	540	570	597	611	825	890	849	793
Without trial........	N/A	N/A	N/A	N/A	1,322	1,627	2,237	2,697	2,924
TOTAL..........	325	540	570	597	1,933	2,452	3,127	3,546	3,717

Request

The sum of $1,165,000 is included for the establishment of five new full-time magistrates, conversion of two part-time magistrate positions to full-time status, and other adjustments as recommended by the Judicial Conference. In addition, funds have been included under the headings "Expenses of Operation and Maintenance of the Courts" and "Space and Facilities" for the new magistrates and their supporting staffs. The new full-time magistrate positions are detailed below.

New Full-time Magistrate Positions

Pittsburgh, Pennsylvania

The Western District of Pennsylvania has ten authorized judgeships. During the 1985 statistical reporting year, there were 3,723 cases filed in the district -- 3,458 civil cases and 265 criminal cases. The per judgeship caseload of the court is below the national average which stands at an all-time high. The volume of case filings within the district, however, has increased substantially since 1981.

The district has been authorized only two full-time magistrate positions to assist the ten judges. The magistrates devote virtually all their time to the disposition of a heavy caseload of social security appeals and prisoner actions. The court requires an additional magistrate position to assist the incumbent magistrates in their caseload and provide additional assistance to the ten judges whose caseload burden has grown substantially. The Judicial Conference has authorized the establishment of an additional full-time magistrate position at Pittsburgh on the basis of the above factors.

Baltimore, Maryland

Ten judgeships are authorized for the District of Maryland, including one judgeship authorized by the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353). During the 1985 statistical reporting year, 5,472 cases were filed in the district - 4,923 civil cases and 549 felony cases. On a per judgeship basis, the court ranks at or near the national average in most caseload categories. The court's civil caseload has increased steadily over the past five years. The court's pending caseload, which includes a significant number of class actions, has continued to rise despite an increase in case terminations.

Two of the district's five full-time magistrates devote their time to the disposition of the heavy misdemeanor and petty offense caseload and to the conduct of preliminary proceedings in felony cases. The other three full-time magistrates perform a broad range of civil duties, including prisoner litigation, social security appeals and discovery disputes. The court requires an additional full-time magistrate position due to the increase in civil filings, the incumbent magistrates' heavy workload, and the substantial number of pending cases. In light of these factors, the Judicial Conference has authorized establishment of an additional full-time magistrate position at Baltimore.

Oklahoma City, Oklahoma

The Western District of Oklahoma has four authorized judgeships, including one authorized by the Bankruptcy Amendments and Federal Judgeship Act of 1984. Additionally, the two "roving" judges in Oklahoma provide the equivalent of one and one-fourth judgeships to the district. During the 1985 statistical reporting year, 3,558 cases were filed in the district - 3,352 civil cases and 206 felony prosecutions. The court's per judgeship caseload significantly exceeded the national averages in most caseload categories, ranking first nationally in the weighted caseload category. An influx of civil filings has resulted in a 74 percent increase in pending cases since 1982, despite the concomitant (76 percent) increase in case terminations.

Three full-time magistrates are authorized for the district. Two of the magistrates perform a wide range of duties. In addition to a heavy volume of preliminary proceedings, the magistrates also handle prisoner litigation, social security appeals, motions in civil cases and civil consent cases. The third magistrate conducts settlement conferences. An additional full-time magistrate is required to serve the district's urgent need for more judicial resources. Accordingly, the Judicial Conference has authorized establishment of an additional full-time magistrate position to serve the district at Oklahoma City. The Judicial Conference has, moreover, authorized a review of the position prior to the filling of the first vacancy to occur two years after appointment of the fourth full-time magistrate, or in four years, whichever occurs earlier.

Tulsa, Oklahoma

The Northern District of Oklahoma has two authorized judgeships and shares two "roving" judgeships with the Eastern and Western Districts of Oklahoma for a total equivalent of 2.4 judgeships. During the 1985 statistical year, there were 1,118 cases filed in the district -- 964 civil cases and 154 felony prosecutions. On a per judgeship basis, the court ranked sixth among all district courts in the weighted caseload category, and ranked first in the nation in the completed trials category.

The district has been authorized only one full-time magistrate. The current magistrate assumed office in September 1985. The former magistrate handled a modest volume of misdemeanors and petty offenses, conducted a small number of pretrial conferences, and provided limited assistance to the judges in civil matters. The court's utilization of the magistrate was minimal due to a lack of confidence in his ability to handle a heavier workload. The court has stated that it intends to utilize fully its present full-time magistrate and would utilize fully another magistrate, expanding the delegable duties to the maximum extent authorized by the Federal Magistrates Act. In light of the court's stated intention and its heavy per judgeship weighted caseload and trial docket, the Judicial Conference has authorized an additional full-time magistrate position to serve the district at Tulsa.

Columbus, Ohio

The Southern District of Ohio has seven authorized judgeships. During the 1985 statistical reporting year, there were 5,618 cases filed in the district -- 5,325 civil cases and 293 criminal cases. On a per judgeship basis, the court ranks at or near the top of the nation in most caseload categories. Although the court terminated the most cases per judgeship in the nation, its pending caseload per judgeship continues to be near the top of the nation.

The district's five full-time magistrates are used extensively and are responsible for virtually all pretrial proceedings in civil cases. The court requires an additional full-time magistrate position due to the extremely heavy caseload filings, the incumbent magistrates' workload, and the heavy pending caseload. The Judicial Conference has authorized the establishment of an additional full-time magistrate position at Columbus on the basis of the above factors.

Conversion of Part-Time Positions to Full-Time Status

Amarillo, Texas

The Northern District of Texas has ten authorized judgeships. During the 1985 statistical reporting year there were 4,827 cases filed in the district -- 4,125 civil cases and 612 criminal cases. The per judgeship caseload of the court is well above the national averages in weighted cases and felony filings.

The district's four full-time magistrates devote a majority of their time to the disposition of civil discovery matters and prisoner litigation. The court requires an additional full-time magistrate position due to the continuing heavy and complex caseload, the incumbent magistrates' heavy workload particularly in prisoner litigation, and the need to provide magistrate assistance to the outlying judges stationed in the district. In light of these factors, the Judicial Conference has authorized the conversion of the part-time magistrate at Amarillo to a full-time position.

San Jose, California

Twelve judgeships have been authorized for the Northern District of California. During the 1985 statistical year there were 9,362 cases filed in the district, including 8,780 civil cases and 582 felony prosecutions. The court's per judgeship caseload is at or near the national averages in most caseload categories, and weighted filings exceed the national average.

The additional magistrate at San Jose would provide six full-time magistrates to serve twelve judges. The current complement of full-time magistrates are authorized to perform the full range of duties allowed by the Federal Magistrates Act, including the conduct of a heavy volume of preliminary proceedings in felony cases, settlement conferences, evidentiary hearings, ruling on discovery motions, and serving as special masters in complex and growing caseload. In light of these factors, the Judicial Conference has authorized conversion of the part-time magistrate position at San Jose to full-time status.

Other Adjustments

The Judicial Conference has authorized establishment of one new part-time magistrate position, discontinuance of three part-time positions, salary decrease of three part-time positions, and an increase in salary of ten existing part-time magistrate positions. These other adjustments are identified below.

New Part-Time Magistrate Position

Butte, Montana at $2,015

Discontinuance of Part-Time Magistrate Positions

Rawlins, Wyoming at $2,015
Selma, Alabama at $2,015
Miami, Oklahoma at $5,037

Salary Decrease for Part-Time Magistrate Positions

Enid, Oklahoma from $2,920 to $1,193
Champlain, New York from $7,164 to $4,030
Twentynine Palms, California from $5,037 to $4,030

Salary Increases for Part-Time Magistrate Positions

Erie, Pennsylvania from $11,195 to $20,039
Tucson, Arizona from $25,859 to $34,200
Wolf Point, Montana from $2,015 to $3,022
Mt. Rainier National Park, Washington from $17,352 to $34,200
Columbus, Georgia from $17,352 to $34,200
Watertown, New York from $11,195 to $22,724
Florence, South Carolina from $4,030 to $25,859
Beckley or Bluefield, West Virginia from $22,724 to $34,200
South Bend, Indiana from $22,724 to $34,200
McAlester, Oklahoma from $4,030 to $7,164

Summary of Requirements

Personnel compensation:

New full-time magistrate positions

Five new full-time magistrate positions to be established at Pittsburgh, Pennsylvania; Baltimore, Maryland; Oklahoma City, Oklahoma; Tulsa, Oklahoma; and Columbus, Ohio at $68,400 per annum		$342,000

Conversion of part-time positions to full-time status

Conversion of two part-time positions at Amarillo, Texas ($5,037); and San Jose, California ($17,352) to full-time status at $68,400 per annum		114,411

Supporting personnel for new full-time magistrates

Five legal assistants at JSP-12*	$158,095	
Seven secretaries at JSP-10	168,077	
Seven clerical assistants at JSP-9	152,628	478,800

Other adjustments

One new part-time magistrate position	2,015
Discontinuance of three part-time magistrate positions	-9,067
Salary decrease for three part-time magistrate positions	-5,148
Salary increase for ten part-time magistrate positions	111,332
Subtotal, personnel compensation	$1,034,343
Deduct lapse (3 percent)	-26,585
Total, personnel compensation	$1,007,758
Personnel benefits	155,019
Total	$1,162,777
Rounded	$1,165,000

*The Judicial Conference has approved legal assistant positions for the new full-time magistrate positions to be established at Pittsburgh, Pennsylvania; Baltimore, Maryland; Tulsa, Oklahoma; and Columbus, Ohio and a legal assistant for the converted part-time magistrate position in San Jose, California.

Item 11. Supporting Personnel for Circuit Executives (10 positions, $413,000)

The Judicial Conference has approved seven additional administrative assistants and three secretaries for the circuit executives' staffs in the courts of appeals. Administrative assistant positions will be assigned to the Second, Fifth, Eighth, Ninth, and Tenth Circuits, and secretarial positions to the Fifth, Eighth, and Ninth Circuits. These positions are needed because of the increased workload and scope of responsibility in the respective offices. The judicial councils and their committees have placed increased demands on the circuit executives' offices in conjunction with the expanded role of the councils in circuit administrative matters.

The Second Circuit position will provide administrative support and legal research for judicial misconduct proceedings in addition to providing support to the judicial council. The Fifth Circuit requires two administrative assistant positions to provide research and administrative support to the circuit executive for studies and reports requested of the circuit executive's office. The additional secretary is needed in order to carry out the secretarial and clerical duties resulting from the increase in work generated by the two administrative assistants. The two additional positions requested for the Eighth Circuit (one administrative assistant and one secretary) will provide staff for the recently established St. Paul division of the Eighth Circuit Executive's office. In the Ninth Circuit, one administrative assistant will handle complaints of judicial misconduct while the other will be primarily responsible for managing, monitoring, and accounting for the hundreds of space expansion and/or alteration projects initiated in the circuit annually. The secretary will provide clerical and administrative support to the assistant who is responsible for handling complaints of judicial misconduct. The administrative assistant in the Tenth Circuit will assist the circuit executive in overseeing the Equal Employment Opportunity Program, streamlining various office procedures and practices, managing the procurement activity, and directing the expanding space management program for the circuit.

The following table shows the circuit executives staff positions authorized for fiscal year 1986 and the positions approved by the Judicial Conference for fiscal year 1987.

Circuit Executives' Staff

Circuit	Present Staff		Fiscal Year 1987 Increase		Proposed Staff	
	Administrative Assistant	Secretary	Administrative Assistant	Secretary	Administrative Assistant	Secretary
D.C.	1	2	0	0	1	2
First	1	1	0	0	1	1
Second	1	2	1	0	2	2
Third	2	2	0	0	2	2
Fourth	2	2	0	0	2	2
Fifth	2	2	2	1	4	3
Sixth	2	2	0	0	2	2
Seventh	1	1	0	0	1	1
Eighth	1	2	1	1	2	3
Ninth	4	4	2	1	6	5
Tenth	1	2	1	0	2	2
Eleventh	2	2	0	0	2	2
Total	20	24	7	3	27	27

The sum of $413,000 is requested for these ten additional positions ($353,000 for personnel compensation and $60,000 for related benefits). This amount will provide for seven new administrative assistants (JSP-14) and three new secretaries (JSP-7). In addition to their salaries and benefits, funds have also been included for these positions under the heading "Expenses of Operation and Maintenance of the Courts."

Item 12. Deputy Clerks for Courts of Appeals (71 positions, $1,027,000)

Additional Positions Based on Staffing Formula

For fiscal year 1987, an additional 66 permanent deputy clerk positions are being requested for the courts of appeals, based on the 75/1 staffing formula. This request will result in an overall ratio of 75 appellate filings per deputy clerk. This ratio of 75 filings per clerk was approved by the Judicial Conference and has been applied as a guideline since 1973 as the appropriate level of staffing for the courts of appeals clerks' offices. Before fiscal year 1986, the clerks' offices were able to function at staffing levels less than the 75/1 ratio would have justified, but the manpower needs of operating manned divisional offices in several of the circuits and the demands of automation will require the full staffing complement envisioned under the approved staffing formula.

The courts of appeals clerks' offices are presently involved in an automation project consisting of full electronic docketing and a complete case management system which is being developed and implemented by the Federal Judicial Center and the Administrative Office. This automation effort will provide more information to the courts, thereby improving management of the caseloads in the courts of appeals. Three of the 12 courts of appeals are presently implementing the automation system, and two additional courts are expected to begin implementation before the end of fiscal year 1985 The current proposal is to expand automation in the courts of appeals at a rate of one clerk's office every three months beginning in fiscal year 1986. It is expected that the courts of appeals will be able to absorb the additional work associated with the introduction of automation within the 75/1 ratio, but they will no longer be able to operate at ratios significantly above 75/1 as they have for the past few years.

The data for fiscal year 1985, show appellate filings of 33,506, which is 1,164 cases greater than the number filed in fiscal year 1984, and 3,119 cases greater than the number filed in fiscal year 1983. This growth translates into an annual increase in filings since fiscal year 1983 of about 5 percent.

Based on the current trend, moderate growth is expected in the next two years. One of the primary reasons for the projected increase in the number of appellate filings is the addition of the 61 new district judgeships approved in the Bankruptcy Amendments and Federal Judgeship Act of 1984. The number of appeals filed is directly related to the number of district court judgeships, all of which are projected to be filled before the end of fiscal year 1986. Based on this fact, as well as the anticipated normal growth in appellate filings, appeals are projected to increase to 36,500 in fiscal year 1986 and 39,500 in fiscal year 1987. These projections represent annual increases of about 9 percent and 8 percent respectively.

A chart containing historical and projected statistical data follows:

Fiscal Year	Appeals	Percentage Growth	Authorized Deputy Clerks	Actual Ratio
1975	16,658	...	202	82
1976	18,408	11	218	84
1977	19,011	3	236	81
1978	19,185	1	273	70
1979	21,127	10	291	73
1980	23,204	10	291	80
1981	27,101	17	307	88
1982	27,761	2	353	79
1983	30,387	9	373	81
1984	32,342	6	403	80
1985	33,506	4	434	77
Estimated				
1986	36,500	9	461	79
1987	39,500	8	527*	75

*Excludes 5 deputy clerk positions requested for bankruptcy appellate panels in fiscal year 1987.

Deputy Clerks for Bankruptcy Appellate Panels

For fiscal year 1987, an additional 5 positions are requested for the bankruptcy appellate panel in the Ninth Circuit. This circuit, the only one to establish a bankruptcy appellate panel, pursuant to 28 U.S.C. 158(b), recently revised its rules to provide for automatic referral of appeals from bankruptcy judges' decisions to the bankruptcy appellate panel so long as there is no objection by any party. As a result of this change, it is expected that the number of appeals handled by the panel will increase to about 600 per year. Five additional positions will be required to perform this increased work. (At present the bankruptcy appellate panel is staffed with 2 positions which are being absorbed in the overall complement of deputy clerk positions justified under the 75/1 ratio.)

Summary

The Administrative Office continues to review the validity of the staffing guideline set forth by the Judicial Conference through court visits and documentation of effective procedures. Based on requirements as observed through court visits, the projection of appellate filings, and the ratio, a total of 66 positions is requested. An additional 5 deputy clerk positions are also requested for bankruptcy appellate panels. The sum of $1,027,000 will provide for the appointment of the new deputy clerks at an average grade of JSP-8 ($878,000 for personnel compensation and $149,000 for related benefits). In addition to their salaries and benefits, funds have also been included for these positions under the heading "Expenses of Operation and Maintenance of the Courts."

Item 13. Deputy Clerks for District Courts (205 positions, $3,047,000)

For fiscal year 1987, an additional 205 deputy clerk positions are requested for the district courts. One hundred and fifty-seven of these positions are based on increases in workload under the work measurement staffing formula, 13 positions are for the pro se law clerk program, and 35 are for systems administrators for the implementation of automation in the courts.

Additional Positions Based on Work Measurement Formula

The chart below containing historical and projected filing data for federal district courts shows that filings, particularly civil filings, have undergone tremendous growth.

Fiscal Year	Civil Filings	Criminal Filings	Total	Percent Increase
1975	117,320	43,282	160,602	
1976	130,597	41,020	171,617	6.9
1977	133,929	39,464	173,393	1.0
1978	140,544	34,255	174,799	0.8
1979	160,016	31,196	191,212	9.4
1980	171,346	29,387	200,733	5.0
1981	185,626	31,280	216,906	8.1
1982	212,503	33,097	245,600	13.2
1983	250,855	35,390	286,245	16.5
1984	259,549	37,829	297,378	3.9
1985	278,681	39,720	318,401	7.1
Estimated				
1986	283,000	42,000	325,000	2.1
1987	295,000	42,000	337,000	3.7

While total filings have almost doubled in the past ten years (1977-1987), staffing has increased by only 85 percent from 2,195 to 4,071 (including 94 clerks of court) despite the increase in functions and responsibilities assigned to clerks' offices over the past ten years.

The chart below breaks out the two components of the civil caseload that have accounted for much of the growth in overall civil caseload during the past few years: recovery of overpayment and social security cases. In making projections for civil filings, these two categories were considered separately.

Fiscal Year	Recovery of Overpayments	Social Security	All Other	Total Civil Filings
1982	31,682	13,541	167,280	212,503
1983	43,981	24,947	181,927	250,855
1984	46,515	27,293	186,148	259,956
1985	59,609	20,104	198,968	278,681
Estimated				
1986	60,000	18,000	205,000	283,000
1987	60,000	20,000	215,000	295,000

The number of recovery of overpayment cases filed in fiscal year 1985 totalled 59,609 cases, which is the highest level ever recorded. The primary reason for the continuation of increases in this category is the increase in loan collection cases initiated by the Department of Education in early 1985. It is expected that the number of these cases filed will level off and remain constant at approximately 60,000 through fiscal year 1987.

Social security cases have been dropping at an average rate of almost 600 per month since reaching a peak for the year ended March 31, 1984. Current projections indicate that aggregate social security case filings will decline further to an estimated 18,000 in fiscal year 1986 but will then increase to 20,000 in fiscal year 1987 based on information obtained from the Social Security Administration.

The previous chart also indicates that other civil case filings (all civil cases except recovery of overpayment cases and social security cases) continue to increase, but at a rate less than the historical trend. The latest data available show "other" civil filings of 198,968 for fiscal year 1985, an increase of 12,820 over fiscal year 1984. It is expected that this slower rate of growth will continue through fiscal year 1987. "Other" civil filings are therefore projected at 205,000 for fiscal year 1986, and 215,000 for fiscal year 1987.

Criminal filings also continue to increase. The latest data available show that there were 39,720 criminal filings for fiscal year 1985, an increase of 1,891 cases over the number of cases filed in fiscal year 1984. Defendants per criminal case have increased as a result of more extensive and complex drug cases. Based on discussions with the Department of Justice, criminal filings are expected to increase to 42,000 in fiscal years 1986 and 1987.

A work measurement formula, approved by the Judicial Conference at its March 1982 meeting, has been employed to compute personnel requirements since fiscal year 1983. Based on the current projections of case filings and other workload factors, the work measurement formula would result in the need for a total of 4,247 deputy clerk positions, an increase of 452 positions over the amount authorized for fiscal year 1986 (excluding clerk of court positions). However, the actual request is lower because certain case filings are weighted downward for purposes of staffing clerks' offices.

The staffing formula is based on the "average" mix of case filings which existed in 1981 when the formula was developed. During the intervening years, as noted above, the number of recovery of overpayment and enforcement of judgment cases (mostly student loans and veterans overpayments) has risen rapidly. Since recovery of overpayment and enforcement of judgment cases are known to take less effort in clerks' offices than other cases (because processing these types of cases lends itself to automation and economies of scale and because there is less judicial activity in these cases), strict adherence to the formula would result in an overstaffing of clerks' offices. To take this situation into account, these cases have been weighted at 40 percent of other cases. This weighting will continue to be evaluated in all courts and may change from year to year depending on the number of these cases filed.

Similar downward adjustment was made for certain misdemeanor criminal cases, which also require less effort in clerks' offices. The weighting for these cases is 20 percent and is applied only to those courts which have large numbers of them.

The combination of these two adjustments to the basic formula lowers the number of positions required from 452 to 157 additional positions, a decrease of 295 positions.

The following chart provides a listing of the manpower needs in the courts listed according to the categories established in the work measurement formula which was first used in fiscal year 1983.

Workload Factors	FY 1985 Actual		FY 1986 Estimated		FY 1987 Estimated	
	Workload Volume	Workyear Credit	Workload Volume	Workyear Credit	Workload Volume	Workyear Credit
Filings:						
Civil..............................	278,681	1,923	283,000	1,953	295,000	2,036
Criminal...........................	39,720	274	42,000	290	42,000	290
Subtotal........................	318,401	2,197	325,000	2,243	337,000	2,326
Adjustments*.......................	-42,400	-293	-42,700	-295	-42,700	-295
Adjusted Subtotal...............	276,001	1,904	282,300	1,948	294,300	2,031
Other Factors:						
Judges.............................	575	920	575	920	575	920
Juror Days.........................	695,761	83	685,000	82	700,000	84
Appeals............................	28,480	108	31,000	118	33,500	127
Attorneys Admitted.................	50,000	33	50,000	33	50,000	33
Divisional Offices.................	161	32	163	33	165	33
Constant Factors...................	...	128	...	128	...	128
Subtotal........................		1,304		1,314		1,325
Additives**........................	...	604	...	744	...	690
Less: Clerks of Court..............		-94		-94		-94
Total Deputy Clerks Justified by Work Measurement Formula........		3,718		3,912		3,952
Less: Positions Authorized by Congress, FY 1986...............						3,795
Additional Requirements, FY 1987...........................						157

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*These downward adjustments result from the weighting of civil recovery of overpayment and enforcement of judgment cases and criminal misdemeanor cases, as explained above.

**"Additives" consist of the workload factors that vary from court to court such as the processing of central violations bureau tickets, naturalization petitions, prisoner petitions and refilling jury wheels. They also include court reporter coordinator positions, pro se law clerk program positions, systems administrator positions, electronic court recorder operator positions, and magistrates' clerical support positions, all of which have been expanding in recent years.

In 1981, the General Accounting Office concluded in its study Better Management Can Ease Federal Civil Case Backlog that use of the clerk's office for administering case management and docket control systems is a most efficient use of resources. Since that time, clerks' offices have been devoting more and more resources to this function. A shortfall in deputy clerk positions can have a direct impact on the speed with which cases are settled and tried. Monitoring of time frames for pleading and discovery ensures that cases do not lay dormant for many months thereby delaying trial and increasing costs to the litigant. Because over 90 percent of the cases settle before trial, management at the pretrial stage is critical to ensure timely settlements. The request for 157 additional positions for fiscal year 1987 would permit clerks' offices to perform this case management function and other critical tasks.

Pro Se Law Clerks and Clerical Support

An additional 13 pro se law clerks and clerical support positions are requested for fiscal year 1987. These 13 positions were requested in the fiscal year 1986 budget as part of an overall request for 27 pro se law clerk and clerical support positions, justified under criteria approved by the Judicial Conference, but only 14 positions were approved. A committee of the Judicial Conference has recently reevaluated the pro se law clerk program and found it to be a beneficial and economic program for processing large numbers of prisoner petitions. The remaining 13 positions are requested again to provide courts which qualify according to the Judicial Conference criteria with pro se law clerk or clerical assistant positions.

Systems Administrators

An additional 35 systems administrator positions, over and above the 20 positions approved in the fiscal year 1986 budget, are requested for fiscal year 1987. This request includes 20 positions which were requested but not approved in the fiscal year 1986 budget. The five-year plan for the automation of the Federal courts now calls for the accelerated implementation of automation with 20 courts to receive equipment in fiscal year 1986 and an additional 17 courts to receive equipment in fiscal year 1987. Virtually all of these courts are expected to need a systems administrator position to maintain the equipment and coordinate implementation of the various automated programs which are being provided to the courts.

Summary

The sum of $3,047,000 will provide for the appointment of 205 new deputy clerks at an average grade of JSP-8 (JSP-12 for the pro se law clerks, JSP-6 for the pro se law clerk secretaries, and JSP-11 for the systems administrators) ($2,604,000 for personnel compensation and $443,000 for related benefits). In addition to their salaries and benefits, funds have also been included for these positions under the heading "Expenses of Operation and Maintenance of the Courts."

Item 14. Deputy Clerks for Bankruptcy Offices (466 positions, $6,458,000)

After declining for two years, bankruptcy filings have now begun to increase dramatically. The data for fiscal year 1985, show that bankruptcy filings totaled 383,497, an increase of 10.7 percent over the 346,500 petitions filed in fiscal year 1984. Based on statistical models of historical data and certain economic variables relevant to bankruptcies, total petitions filed are expected to reach

440,000 in fiscal year 1986 and 485,000 in fiscal year 1987 increases of 14.7 and 10.2 percent, respectively. Adversary proceedings are now calculated exclusive of motions to lift the automatic stay and motions for release of lien. With this change, adversaries now closely correlate to total bankruptcy filings. The projections of filings by Chapter and Adversary Proceedings are shown below:

	Actual		Projected	
	FY 84	FY 85	FY 86	FY 87
Petitions Filed	346,594	383,497	440,000	485,000
Chapter 7	235,135	257,928	295,000	325,000
Chapter 11	20,018	22,602	26,000	29,000
Chapter 13	91,441	102,967	119,000	131,000
Adversary Proceedings[1]	58,804	63,226	75,000	85,000

[1] Excludes motions to lift the automatic stay and motions to avoid leins.

At its March 1985 session, the Judicial Conference approved a revised work measurement staffing formula for bankruptcy clerks' offices. As with the previous work measurement formula, the prime determinants of staffing needs are the numbers of Chapter 7, 11, and 13 filings. However, the formula incorporates other factors which also influence the need for staff in the bankruptcy clerks' offices, including the number of adversary proceedings filed, noticing activity, closing Bankruptcy Act petitions, the number of miles driven while on official business, and clerical support required for estate administration purposes.

SUBTRACTIVES

The new work measurement formula was developed on the premise that all tasks associated with the noticing and claims functions are performed manually, "in-house," by the bankruptcy clerks' offices. Certain considerations such as automated noticing through the Bankruptcy Automated Noticing System (BANS) in 16 districts, contracting out, and delegation of noticing responsibilities to debtors-in-possession that would have affected position requirements were excluded from the measurement study because of insufficient data. The additional positions justified by the new formula for fiscal year 1987 (588) are therefore overstated.

To correct this deficiency the Administrative Office has begun a follow-up study to ascertain the impact of automation on the staffing requirements of bankruptcy offices. A preliminary report on the findings will be available in early January 1986. The final report is expected later that month. Pending completion of this study, a provisional subtractive of 122 positions has been developed using noticing and claims workload estimates submitted by the bankruptcy clerks. These positions have been deducted in establishing the budgetary requirements for bankruptcy offices in fiscal year 1987.

The following chart provides a listing of the manpower needs in bankruptcy clerks' offices according to the categories established in the work measurement formula taking into account position savings from automation and contracting out.

	FY 1985 Actual		FY 1986 Estimated		FY 1987 Estimated	
Workload Factors	Number	Credit	Number	Credit	Number	Credit
Petitions Filed:						
Chapter 7................	257,928	1,003	295,000	1,145	325,000	1,254
Chapter 11...............	22,602	410	26,000	472	29,000	527
Chapter 13...............	102,967	202	119,000	233	131,000	256
SUBTOTAL...............	383,497	1,615	440,000	1,850	485,000	2,037
Other Factors:						
Adversaries..............	63,226	67	75,000	80	85,000	90
Noticing.................	370,000	544	400,000	589	440,000	648
Closing Act Cases........	7,000	23	4,000	14	3,000	9
Miles Driven.............	833,000	14	833,000	14	833,000	14
Support for Estate Administrators..........	...	41	...	42	...	43
Constant Factors.........	...	327	...	327	...	327
SUBTOTAL...............		1,016		1,066		1,131
Total Positions Justified by Formula...............		2,631*		2,916*		3,168*
Less: Positions saved from Automation and Contracting out......................						-122
Less: Positions Authorized by Congress, FY 1986.....						-2,580**
Additional Requirements, Fiscal Year 1987.........						466

*Excludes court reporters, electronic court recorder operators, and estate administrators.

**Includes 200 positions requested in a fiscal year 1986 program supplemental and 160 temporary deputy clerks authorized in 1985.

As shown on the chart, applying the factors developed by the work measurement formula to the projection of these workload factors for fiscal year 1987 results in a need for 3,168 positions, an increase of 588 positions over the 2,580 positions authorized for fiscal year 1986. After deducting, however, the estimated 122 positions saved from the automation and contracting out of noticing, the number of additional positions required for fiscal year 1987 will be 466. To ensure effective and efficient case management and estate administration, approval of these additional permanent positions is essential to the operations of the bankruptcy clerks' offices.

Summary

The sum of $6,458,000 will provide for the appointment of 466 new deputy clerks at an average grade of JSP-8 ($5,520,000 for personnel compensation and $938,000 for related benefits). In addition to their salaries and benefits, funds have also been included for these positions under the heading "Expenses of Operation and Maintenance of the Courts."

Item 15. Probation and Pretrial Services (491 positions, $6,967,000)

For fiscal year 1987, a total of 491 additional permanent positions is requested for the Federal Probation Service (329 officers and 162 probation clerks). This request is a net increase which takes into account 57 permanent positions (38 officers and 19 clerks) currently available in the base appropriation which will be assigned to separate pretrial services organizations in districts with six or more judgeships.

a. Probation Service

The three major indices of the probation workload (the number of persons received for supervision during the course of a year, the number of persons under supervision, and the number of presentence investigation reports prepared), are all increasing. The following tables of the three major indices of the workload covering fiscal years 1981 through 1985 reflect the annual changes.

Persons Received for Supervision

The following is a comparison of the number of persons received by type of supervision. Projections for fiscal years 1986 and 1987 are included.

Persons Received by Type of Supervision

Fiscal Year	Court Probation	U.S. Magistrate Probation	Parole*	Mandatory Release	Military Parole	Pretrial Diversion	Total
1981	11,920	5,449	7,689	1,839	326	1,969	29,192
1982	13,681	6,620	7,395	2,005	264	2,083	32,048
1983	14,693	7,582	7,511	1,995	283	2,137	34,201
1984	14,748	7,487	7,723	2,278	239	2,285	34,760
1985	14,987	7,972	7,502	2,610	283	2,104	35,458
Estimate							
1986	15,900	8,400	7,900	2,800	300	2,200	37,500
1987	16,900	9,000	8,400	3,000	300	2,400	40,000

*Includes special parole cases of which there were 1,708 in 1985.

Persons Under Supervision

A steady increase in criminal filings since 1981 has led to a rise in the number of persons under supervision. It is predicted that this upward trend will continue in 1986 and 1987.

The following table reflects the number of persons under supervision, by type of supervision, at the close of the respective fiscal years, with projections for fiscal years 1986 and 1987.

Persons Under Supervision by Type of Supervision

Fiscal Year	Court Probation	U.S. Magistrate Probation	Parole*	Mandatory Release	Military Parole	Pretrial Diversion	Total
1981	31,564	7,096	16,108	1,221	441	2,064	58,494
1982	32,471	8,043	14,778	1,147	395	2,175	59,009
1983	34,064	9,014	14,010	1,120	397	2,175	60,780
1984	35,932	9,528	14,595	1,210	337	2,387	63,989
1985	37,661	10,376	14,945	1,496	363	2,172	67,013
Estimate							
1986	39,000	10,800	15,400	1,600	400	2,300	69,500
1987	40,200	11,100	15,900	1,600	400	2,300	71,500

*Includes special parole cases of which there were 3,427 in 1985.

Investigative Reports

Investigative reports have increased from 112,651 in fiscal year 1981 to 130,838 in 1985, an increase of 16.1 percent. The number of presentence reports prepared in 1985 has increased from the previous year as did most other investigative reports.

Type of Investigation	1981	1982	1983	1984	1985
Presentence Investigation	25,782	28,086	30,466	31,382	33,449
Collateral Investigation for Another District	19,036	21,939	22,899	23,680	26,037
Preliminary Investigation To Assist U.S. Attorney	2,100	2,178	2,129	2,418	2,127
Postsentence Investigation for Institution	967	971	1,359	1,316	1,272
Pretransfer Investigation	8,676	8,035	7,710	8,181	8,486
Alleged Violation Investigation (Probation & Parole)	12,592	12,086	12,332	12,876	13,511
Prerelease Investigation for a Federal or Military Institution	7,717	6,908	7,145	7,135	6,979
Special Investigation Regarding a Prisoner in Confinement	5,911	5,770	6,054	6,789	7,005
Furlough and Work Release Reports for Bureau of Prisons Institution	5,485	5,455	5,877	5,300	5,603
Supervision Reports	22,472	21,438	22,348	22,824	24,679
Parole Revocation Hearing Reports	1,913	2,897	1,954	1,742	1,690
TOTAL	112,651	115,763	120,273	123,643	130,838

Work Measurement Study and Projected Staff Needs

In 1980, the Administrative Office, at the direction of the Judicial Conference, initiated a work measurement study to reevaluate the formula used to staff probation offices. This action was based on recognition that a number of significant changes had affected the work responsibilities of probation officers. Drug aftercare contract and treatment responsibilities as provided in Public Law 95-537, "Contract Services for Drug Dependent Federal Offenders Act of 1978," added duties for probation officers. In addition, legal decisions and changes in the Rules of Criminal Procedure and the Rules of the Parole Commission provided for formal disclosure of presentence investigations and formal procedures for processing probation and parole violators. A system of classifying cases using predictive devices for identifying high risk cases and accompanying guidelines for supervising these offenders was initiated in 1980.

The work measurement study of probation offices was completed in June 1981. This study developed a staffing ratio based on the number of offenders supervised; the level of supervision required (high activity/low activity); the number of presentence, postsentence, collateral, and violation reports completed; and the number of drug aftercare clients receiving services. The staffing ratio also considers requirements for clerical support, management support, and miles traveled while on official business.

In addition, there is an additive factor for pretrial services provided pursuant to the Pretrial Services Act of 1982, Public Law 97-267. This legislation provides for the establishment of pretrial services throughout the district courts. It requires the Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference, to provide directly, or by contract or otherwise, for the establishment of pretrial services "to such extent and in such amounts as are provided in appropriation Acts." These services are to be provided through existing probation offices or offices established specifically for pretrial services, or by contract. Under the provision of the Act, nine judicial districts have established pretrial services separate from probation and the remainder are establishing pretrial services through the probation office. Workload estimates and personnel requirements for the provision of pretrial services in probation offices are included in this item. Requirements for the nine separate offices are shown under section b of this item.

The program's three major functions are: Investigation, supervision, and services. Investigations are performed on all defendants, except for petty offenses. Supervision and services are performed where required as conditions of release. Position requirements are established by the Director of the Administrative Office with the approval of the Judicial Conference. In order to develop an estimate for personnel requirements, work measurement factors based on a work measurement study completed in 13 sites in 1985 were applied to the projected number of criminal defendants for fiscal year 1987. This takes into account necessary clerical support.

The staffing ratios shown below are the work factor volumes or frequency of accomplishment for which one position is required. These ratios equate to the maximum workload volume expected of an employee working a normal 40-hour week.

Functional Work Group	Staffing Ratio
1. Client Supervision	
a. High Activity	41:1
b. Low Activity	90:1
2. Presentences/Postsentences	97:1
3. Collaterals	357:1
4. Violations	212:1
5. Drug Aftercare and Contracting for Drug Aftercare	112:1
6. Management and Support*	7.09:1
7. Travel (Miles)	60,000:1
8. Clerical Functions**	1.66:1
9. Pretrial Services***	
a. Criminal defendants (excluding petty offenses, traffic, and escape)	323:1
b. Defendants supervised	151:1
c. Material Witnesses	197:1
d. Management and Support	7.09:1
e. Clerical Functions (a, b, & c divided by 2.25)	2.25:1

*Number of positions authorized through application of staffing ratios one through five.

**Number of positions authorized through application of staffing ratios one through seven.

***Where pretrial services are performed in separate offices there are 2 additional workload factors: Diversion reports (185:1) and Divertees supervised (162:1).

Actual and estimated workload volume and staffing requirements based on the application of the staffing ratios for fiscal years 1985, 1986, and 1987, are shown below.

Work Group	Staffing Ratio	FY 1985 Actual Workload Volume	FY 1985 Actual Positions Required	FY 1986 Estimated Workload Volume	FY 1986 Estimated Positions Required	FY 1987 Estimated Workload Volume	FY 1987 Estimated Positions Required
A. Probation Service							
1. Clients Under Supervision							
a. High Activity Cases	41:1	26,438	644.8	27,105	661.1	27,885	680.1
b. Low Activity Cases	90:1	40,582	450.9	42,395	471.1	43,615	484.6
2. Pre- and Postsentence Reports	97:1	34,721	357.9	36,500	376.3	36,500	376.3
3. Collateral Reports	357:1	26,037	72.9	26,500	74.2	26,500	74.2
4. Violation Reports	212:1	13,511	63.7	13,000	61.3	13,000	61.3
5. Drug Aftercare Clients	112:1	6,510	58.1	7,100	63.4	7,400	66.1
Subtotal			1,648.3		1,707.4		1,742.6
B. Pretrial Services[1]							
1. Criminal Defendants	323:1	34,249	304.4	35,867	111.0	35,867	111.0
2. Defendants Supervised	151:1	...	...	17,933	118.8	17,933	118.8
3. Material Witnesses	197:1	...	...	...	...[2]	...	...
Subtotal			304.4		229.8		229.8
C. Travel Mileage							
1. Probation	60,000:1	7,911,891	131.9	8,130,000	135.5	8,250,000	137.5
D. Management and Support							
1. Probation	7.09:1		232.5		240.8		245.8
2. Pretrial	7.09:1		42.9		32.4		32.4
Subtotal			275.4		273.2		278.2
E. Clerical Functions							
1. Probation	1.66:1		1,212.5		1,255		1,281
2. Pretrial	2.25:1		...		117		116.5
Subtotal			1,212.5		1,372		1,397.5
TOTAL			3,572		3,718		3,786[3]

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[1] In 1985 the staffing needs were based on a previous work measurement formula. Only 44 positions were available, which were assigned to probation offices in the demonstration districts for the performance of pretrial services. These districts are: New York (E), 6 positions; Texas (N), 8 positions; Illinois (N), 8 positions; California (C), 18 positions; and Georgia (N), 4 positions. The six positions assigned to New York Eastern have been frozen and are vacant. The District of Columbia is not included in the Pretrial Services Act.

[2] In 1985 there were only 200 known material witnesses, therefore, no additional positions have been requested.

[3] Includes 57 positions available for assignment to separate pretrial services agencies.

Staff Recapitulation

	1985 Authorized	1986 Authorized	1987 Required	Increase Requested
Probation				
Officers	1,902	1,902	2,086	184
Clerks	1,177	1,177	1,281	104
Probation Officer Assistants	40	40	40	0
Subtotal	3,119	3,119	3,407	288
Pretrial (performed in Probation Offices)				
Officers	29	79	224	145
Clerks	15	40	98	58
Subtotal	44	119	322	203
TOTAL	3,163	3,238	3,729	491

The projected workload computations are based solely upon application of the work measurement staffing factors. They do not take into consideration several additional tasks, such as the following, which have been assumed since the completion of the work measurement study: The probation system cooperates with the United States Marshals Service and the United States Parole Commission in the Witness Protection Program. Supervision services are currently provided for approximately 250 probationers and parolees who have been given new identities for security reasons following their testimony in major crime prosecutions. For security reasons, these cases are not recorded in the count of persons under supervision. Therefore, the staff required for this function are not included in the justification for 1986. These offenders are all in high activity supervision and approximately 10 positions, 6 officers and 4 clerks, are required to supervise them.

As required by the Victim and Witness Protection Act of 1982, probation officers are now preparing victim impact statements for presentence reports provided to the sentencing court. The victim impact statement contains information about the impact of the defendant's offense upon the victim, including any financial, social, psychological, and physical harm or loss. Upon request from the United States Attorney, who is responsible for coordinating victim and witness services, probation officers may also provide crisis intervention counseling, consultation, or agency referral as needed.

The Criminal Fine Enforcement Act levies new duties on probation officers in the collection of fines and reporting of delinquent fines to the courts. The Bail Reform Act contained in the Comprehensive Crime Control Act establishes three new types of detention hearings at the pretrial stage. Probation and pretrial services officers are called upon to develop factual information in preparation for the hearings; prepare and update reports to judicial officers; and attend, and at times testify, at the hearings.

In order to provide improved sentencing data to aid judges in their sentencing decisions, the Federal Probation Sentencing and Supervision Information System (FPSSIS) was implemented on July 1, 1983. Probation offices collect data regarding offender and offense characteristics, supervision status changes, supervision adjustment, and outcome and report this information to the Administrative Office for computer processing. Reports are provided to each district which permit the comparison of sentences imposed for similar offenses and offenders of similar characteristics. District reports and national summaries will be published every six months.

Summary of Requirements

In view of the projected workload increase for fiscal year 1987, the request for 1987 totals 548 positions (367 probation officers, 181 probation clerks) at an estimated first year cost of $7,775,000. Detail on this estimate is depicted in the table below. In addition to their salaries and benefits, funds have also been included for these positions under the heading "Expenses of Operation and Maintenance of the Courts."

Position	Number of Positions	JSP Grade	Compensation
Probation Officers....	40*	13	$ 1,027,040
	327	9	7,129,908
	367		
Probation Clerks......	22**	7	368,588
	161	6	2,550,360
	183		
Subtotal, compensation..........			$11,075,896
Deduct lapse (40 percent).......			-4,430,358
Total, compensation............			$ 6,645,538
Benefits......................			1,129,741
TOTAL...............			$ 7,775,279

*The cost of these positions, which are designated as supervisory probation officers, was calculated at the entrance level, JSP-9, plus the cost of promoting existing positions from JSP-12, Step 3 to JSP-13.

**The cost of these positions, which are designated as supervisory clerks, was calculated at the entrance level, JSP-6, plus the cost of promoting existing positions from JSP-6, Step 3 to JSP-7.

b. Pretrial Services

The Pretrial Services Act of 1982, Public Law 97-267, provides for the establishment of pretrial services throughout the district courts. The law requires the Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference, to provide directly, or by contract or otherwise for the establishment of pretrial services "to such extent and in such amounts as are provided in appropriation Acts." These services are to be provided through existing probation offices or offices established specifically for pretrial services, or by contract. Under the provision of the Act, nine judicial districts have, to date, established pretrial services separate from probation. The nine districts with separate pretrial services offices are listed below.

Puerto Rico
New York (S)
Pennsylvania (E)
Maryland
Michigan (E)
Missouri (W)
California (E)
Nevada
Florida (S)

(Note: Although additional separate pretrial services organizations are contemplated, the exact number, location and timetable for establishment have yet to be determined.)

Workload estimates and personnel requirements for the provision of pretrial services in the nine separate offices are included in this section. Requirements for the provision of pretrial services in probation offices are included under section a of this item.

The program has three major functions: investigation, supervision, and services. Investigations are performed on all defendants, except for petty offenses. Supervision and services are performed where required as conditions of release. Position requirements are established by the Director of the Administrative Office with the approval of the Judicial Conference. In order to develop an estimate for personnel requirements, work measurement factors based on a work measurement study conducted in 13 sites and completed in January 1985 were applied to the projected workload for fiscal year 1987. This takes into account necessary clerical support.

Work Group	Workload Volume	Staffing Ratio	Positions Required
1. Criminal Defendants	9,843	323:1	30.5
2. Defendants Supervised	4,922	151:1	32.6
3. Diversion Reports	655	185:1	3.5
4. Divertees Supervised	970	162:1	6.0
5. Material Witnesses	382	197:1	1.9
6. Management & Support	74.5	6.9:1	10.8
7. Travel	141,000	60,000:1	2.4
8. Clerical	87.7	2.25:1	39.0
			127.0

Staff Recapitulation

Pretrial Services Agencies	1985 Authorized	1986 Authorized	1987 Estimated Requirement	Positions Available Pending Assignment
Officers	70	120	82	38
Clerks	39	64	45	19
Total	109	184	127	57

A total of 303 positions is authorized for pretrial services in the appropriation base. Of this number, 184 have been earmarked by the Congress for separate pretrial services offices. Based on the application of the work measurement factors to the projected workload in the nine separate offices (shown above), 127 positions will be required in fiscal year 1987. The remaining 57 positions will be allocated to districts having six or more judgeships in conformance with the Conference Committee report.

c. Summary

Based on the projected increases in workload, it is estimated that an aggregated 491 additional positions at an estimated cost of $6,967,000 ($5,954,000 for compensation and $1,013,000 for personnel benefits) will be required to adequately staff probation offices in fiscal year 1987. This includes 250 officers and clerks for probation functions and 241 officers and clerks to perform pretrial service activities in probation offices. In addition, 57 positions are authorized for separate pretrial services agencies for which $808,000 is currently available in the appropriation base as adjusted. The following table summarizes the position and funding requirements for probation and pretrial services in fiscal year 1987:

Position Requirements

	1986 Authorized	1987 Required	Increase Requested
Probation Service:			
Probation Officers	1,942	2,126	+184
Clerks	1,177	1,281	+104
Subtotal	3,119	3,407	+288
Probation Officers (Pretrial Services)	79	224	+145
Clerks	40	98	+58
Subtotal	119	322	+203
Total, Probation Service	3,238	3,729	+491
Pretrial Services Agencies:			
Pretrial Services Officers	120	120	0
Clerks	64	64	0
Total, Pretrial Services Agencies	184	184*	0
GRAND TOTAL	3,422	3,913	+491

*Includes 57 positions available for assignment to separate pretrial services agencies.

Item 16. Supporting Personnel for Senior Judges (30 positions, $1,003,000)

Federal judges retiring from regular active service pursuant to 28 U.S.C. 371(b) and assuming senior judge status retain their office, and most of them continue to render substantial judicial service for a number of years, notwithstanding their retirement. These senior judges are permitted under the regulations of the Judicial Conference to retain such staff as they may require to assist them in their judicial work.

The average number of senior judges increased from 242 in fiscal year 1984 to 258 in 1985. In addition, 59 judges were eligible to retire as of September 30, 1985, 34 more judges will become eligible during fiscal year 1986, and another 24 judges during fiscal year 1987. Of these 117 potential retirees, it is estimated that an average of six judges will take senior status during 1987 and continue to render substantial judicial service and thereby retain some, if not all, of their present staff. On the average, it is projected that the judicial councils of the circuits will authorize senior judges to retain one and one-half law clerks and one secretary. Based on these assumptions it is estimated that an additional nine law clerk and six secretarial positions will be required to support new senior judges in fiscal year 1987.

The fiscal year 1986 appropriation, as enacted, did not include additional personnel to support new senior judges even though such positions were requested. To provide adequate staff for the estimated six judges who will take senior status in 1986, the Judiciary is again requesting authorization for nine additional law clerk and six secretarial positions.

The sum of $1,003,000 is requested for eighteen additional law clerks at grade JSP-12 and twelve secretaries at grade JSP-10 ($857,000 for personnel compensation and $146,000 for related benefits). In addition to their salaries and benefits, funds have also been included for these positions under the headings "Expenses of Operation and Maintenance of the Courts" and "Space and Facilities."

Item 17. Preargument Conference Program (12 positions, $457,000)

The preargument conference program originated in 1974 when the Second Circuit implemented an experimental program of preargument conferences, known as Civil Appeals Management Plan (CAMP) to address the problem of a rapidly increasing number of appellate filings. The program was established with a fourfold purpose: to dispose of appeals through settlement or withdrawal without action by the court; to improve the quality of briefs and arguments in those appeals that did not settle; to accelerate consideration and disposition of appeals through issue clarification; and to resolve potential procedural problems. Further, to expedite the appellate process, all civil appeals, whether or not selected for conferences, were made subject to scheduling orders that set deadlines for the various steps required to bring an appeal before a panel of judges.

In the beginning, the CAMP was handled by one staff counsel from the staff attorney's office who issued scheduling orders in all civil appeals from the district courts. Preargument conferences were held only in those cases determined, on the basis of appellant's preargument statement, to be candidates for settlement. With the success in reducing the number of civil appeals that were decided by a three-judge panel, the court expanded the program to include appeals from administrative agencies and tax court decisions. Moreover, the scope of the preargument conferences was broadened to include all such appeals, rather than selected ones.

As a result of the Second Circuit's success with the CAMP concept in expediting and improving case management, similar preargument programs were implemented in the Sixth and Eighth Circuits in 1981 using staff allocations from the staff attorneys and clerks offices. In most respects the program objectives in these circuits are identical to those in the Second Circuit: settlement of civil appeals; simplification of issues briefed and argued; and, reduction of motions and procedural problems. Unlike the Second Circuit, however, cases selected for the preargument in the Sixth and Eighth Circuits have been limited to civil appeals.

The preargument conference programs in the Second, Sixth, and Eighth Circuits do not function as adjuncts of the staff attorneys, but are, in fact, separate offices. The main thrust is settlement, not the preparation of bench memoranda for judges prior to argument or the drafting of opinions after argument. The staff does not rule on the merits of substantive motions or provide recommendations to the judges on such motions. Instead, the primary goal is to settle cases that would otherwise require full appellate review and thus reduce pending caseload. In those cases that do not lend themselves to full settlement, the program identifies and resolves problems early by delineating issues and limiting briefs and records required for review.

The effectiveness of the current preargument conference programs can be demonstrated by the workload. In the Second and Eighth Circuit Courts, approximately 100 cases a year are settled through this process. In the Sixth, the settlement rate is about 150 cases a year. In each circuit, the case termination rate compares favorably with that of a single judge at 100 cases per judge per year. In terms of cost effectiveness, the overall preargument staff and office costs are much less than a fully staffed judge with chambers.

In recognition of the valuable contributions the preargument conference programs have made in facilitating case reduction and improving case management, the Judicial Conference is requesting additional permanent positions to formally establish the programs in the Second, Sixth, and Eighth Circuits. No expansion beyond these circuits is contemplated at this time. To allow for these positions, the Judicial Conference is also requesting exclusion of preargument attorneys and supporting staff from the current ratio of one staff attorney to each circuit judge imposed by the Congress in the 1983 appropriation act. To accommodate this change, a draft appropriation language change to exclude the seven attorneys assigned preargument conference duties from the limitation, has been incorporated in the fiscal year 1987 appropriation request. (See page 6.7)

Summary Requirements

The sum of $457,000 will provide for the appointment of 12 preargument attorneys and support staff in three circuits ($457,000 for personnel compensation and $66,000 for related benefits). This amount provides for four attorneys at grade JSP-15, three assistant attorneys at grade JSP-12, and five secretaries at grade JSP-8. In addition to their salaries and benefits, funds have also been included for these positions under the heading "Expenses of Operation and Maintenance of the Courts."

The following table shows the distribution of the preargument conference positions requested.

Circuit	Pre-argument Attorneys	Assistant Attorneys	Secretaries	Total
Second	2	0	2	4
Sixth	1	2	2	5
Eighth	1	1	1	3
Total	4	3	5	12

Item 18. Legal Assistants for Magistrates (11 positions, $393,000)

The Federal Magistrates Act of 1979 authorized the Judicial Conference to provide legal assistant positions to full-time magistrates. In creating the position of legal assistant, the Congress recognized the growing range and volume of judicial duties assigned to magistrates under authority of 28 U.S.C. 636(b), particularly in the area of pretrial motions, prisoner litigation, and social security cases. (S. Rep. No. 96-74, 96th Cong., 1st Session, 18 (1979)). Moreover, the Act authorized magistrates to try civil cases, including jury trials, upon the consent of the parties. These expanded judicial responsibilities necessarily require a substantial amount of legal research and opinion writing by magistrates. Accordingly, legal assistant positions were authorized to assist the magistrates with these tasks.

The Judicial Conference criteria for authorizing legal assistant positions for magistrates require: (a) that the number of legal assistant positions authorized in any district not exceed a ratio of one assistant per full-time magistrate position; (b) that the magistrate perform an appreciable volume of judicial duties under authority of 28 U.S.C. 636(b) or (c); (c) that the request be approved by the district court; and (d) that the request be approved by the judicial council of the pertinent circuit.

In fiscal years 1982 through 1986, the Congress authorized funds for a total of 244 legal assistant positions for selected full-time United States magistrates. In no case has the Judicial Conference authorized more than one permanent legal assistant for any full-time magistrate, nor have any legal assistants been provided to magistrates whose caseloads are limited to criminal duties under 636(a).

For fiscal year 1987, funds for an additional 11 legal assistant positions are requested. Each of the requests was reviewed thoroughly on the basis of detailed statistical and narrative justifications. The following positions will be allocated in accordance with Judicial Conference standards for providing legal assistant positions.

Circuit	District	Location
Fourth	Virginia (Eastern)	Alexandria Norfolk
Fifth	Texas (Northern)	Dallas Fort Worth
	Texas (Eastern)	Beaumont
	Texas (Southern)	Corpus Christi
	Texas (Western)	El Paso
Tenth	Colorado	Denver
	Oklahoma (Western)	Oklahoma City
Eleventh	Alabama (Northern)	Birmingham
	Alabama (Middle)	Montgomery

Item 19. National Court Library System (20 positions, $403,000)

For fiscal year 1987, 20 additional library personnel are requested to continue the development of the National Court Library System. On October 1, 1986, the system will have completed six years of operation. Each court of appeals manages the library program within its circuit. The system, structured around the 12 circuit libraries and their satellites, brings library and information services to all judges, magistrates and other court personnel. The circuit librarians manage the delivery of all information services needed by the Judiciary, including computer assisted legal research (CALR) service, which will be undergoing a major expansion during fiscal year 1986 and 1987 from 50 locations to 125. The circuit library system will provide support services to those CALR terminals located in courthouses without a library operation. In addition, the libraries will participate in the court's Office Automation Program.

One reason for the development of the court library system was to assure that there would be professional management of all lawbooks acquired for use by the court personnel in libraries and chambers. Professional librarians now make sure that all materials are current, available when required, and disposed of when obsolete, freeing space for newer books. Infrequently used material is not purchased, but is borrowed on interlibrary loan, thus saving appropriated funds for the acquisition of the most used lawbooks.

The Administrative Office supports this nationwide program by maintaining computerized inventories of all holdings; keeping subscriptions current; and providing guidelines for appropriate lawbook purchases, the disposal of obsolete materials, and the transfer of current, but unneeded material. As a result, the court libraries are far more effectively and efficiently managed.

Seventy-five staffed court libraries and information centers using the latest methods and technologies, including computer assisted legal research (CALR), on-line bibliographic retrieval for cataloging and interlibrary loan, have been or will be developed in the following cities:

Circuit	Libraries	Headquarters	Satellites
District of Columbia	1	Washington, D.C.	None
First	3	Boston, MA	San Juan; Portland (Open 1986)
Second	6	New York, NY	Brooklyn; Hartford; Uniondale/Westbury; New Haven; Bridgeport (Open 1986)
Third	6	Philadelphia, PA	Pittsburgh; Newark; Wilmington; Virgin Islands (2); Trenton
Fourth	4	Richmond, VA	Baltimore; Charleston, WV; Norfolk
Fifth	9	New Orleans, LA	Houston; Baton Rouge; Brownsville; Austin; San Antonio; Dallas; Lafayette; Biloxi
Sixth	8	Cincinnati, OH	Detroit; Grand Rapids; Memphis; Nashville; Cleveland; Louisville; Columbus (Open 1986)
Seventh	4	Chicago, IL	Indianapolis; Milwaukee; Madison
Eighth	7	St. Louis, MO	St. Paul; Little Rock; Des Moines; Omaha; Kansas City, MO; Minneapolis
Ninth	15	San Francisco, CA	San Francisco (District); Los Angeles; Pasadena; Phoenix; Tucson; Seattle; Portland (2); Honolulu; Anchorage; Guam; Sacramento; San Diego; Boise (Open 1986)
Tenth	6	Denver, CO	Cheyenne; Tulsa; Oklahoma City; Salt Lake City; Albuquerque
Eleventh	6	Atlanta, GA	Atlanta (District); Montgomery; Miami; Jacksonville; Birmingham (Open 1986)
TOTAL	75		

The development of this court library network permits the sharing of resources by all libraries and personnel thereby reducing the lawbook requirements in individual chambers libraries. As a result, the approved lawbook list for chambers' collections has been reduced. Major cost avoidance in new lawbook purchases is being realized because of the extensive transfer of existing lawbooks program managed through the Administrative Office and implemented by the circuit librarians.

To determine the number of employees needed to operate a circuit-wide library program, a formula was developed in fiscal year 1981, the beginning of the reorganization of the national court library system. In the judgment of court officials, the presence of five judicial officers (circuit, district, bankruptcy and senior judges) in one location would generate sufficient need for research assistance to establish a court satellite library to be staffed by a professional librarian. That librarian could be assigned a clerical assistant, and if a computer-assisted legal research (CALR) terminal was at the site, a CALR operator might also be assigned to assist the librarian.

Because the library program is a total circuit-wide information system delivering service to all judicial officers wherever located, the headquarters library becomes responsible for services to those officials without direct access to a satellite library. Therefore, to give credit for circuit-wide support and to determine the number of staff personnel the circuit would be entitled to, the total number of judicial officers in the circuits was divided by the number five. In other words, the same formula used to determine the feasibility of a satellite library is used to calculate the total personnel to assign to each circuit library. By using this formula, the circuit library is given credit for the services accorded the entire circuit without regard to location. Quite naturally, more staff is needed at the headquarters library because of the circuit-wide nature of its work.

At the time the total staff calculations were originated in 1981 (using the 5:1 ratio excluding magistrates), there were 1,061 judges. The maximum number of library positions was projected at 210, a number still in use in fiscal year 1986, although now there are 1,454 judicial officers, including 85 new judgeships authorized in 1984 and 272 full-time magistrates who were not included in the original formula calculation. While the number of judicial officers has increased, the formula has been adjusted to a ratio of 6:1. Under a revised application of the formula, 242 positions will be needed among the circuit libraries, an increase of 32 positions, to address the increased workload generated by new judicial officers, to add staff to a system that has grown from 59 to 75 libraries since fiscal year 1981, and to support the expansion of CALR services.

When any new staff to be allocated under the formula to each circuit is approved by Congress, the positions are assigned to each chief judge of the court of appeals at the beginning of a fiscal year. The placement of new positions either in headquarters or in branch libraries generally is a joint decision of the judges, circuit executive and circuit librarian.

National Court Library System
Positions Summary

Fiscal Year	Total Number of Positions	Increases Over Prior Year
1981	96*	0
1982	115	19**
1983	125	10***
1984	145	20****
1985	164	19
1986	164	0
1987	184	20
1988	204	20
1989	224	20
1990	242	18

*CALR operator positions added to library program.

**Includes new Eleventh Circuit librarian authorized separately in 1982.

***One CALR position added to program in First Circuit plus nine positions authorized by Congress.

****One CALR position assigned to program in the Ninth Circuit plus 19 positions authorized by Congress.

The following is a circuit allocation of the full-time library positions presently authorized and the proposed increases for each court until the maximum projected staff is reached during fiscal year 1990:

Circuit	Number of Libraries	Authorized Total Staff FY 1986*	Projected Additional Staff FY 1987	Increases FY 1988	Increases FY 1989	Increases FY 1990	Maximum Projected Staff
D.C.	1	6	1	...	...	...	7
First	3	7	1	...	1	1	10
Second	6	14	2	4	1	2	23
Third	6	16	0	...	1	2	19
Fourth	4	13	2	...	2	3	20
Fifth	9	14	2	3	4	3	26
Sixth	8	12	4	5	2	2	25
Seventh	4	13	2	1	1	1	18
Eighth	7	13	1	...	3	1	18
Ninth	15	30	2	4	3	1	40
Tenth	6	12	0	...	1	1	14
Eleventh	6	14	3	3	1	1	22
Totals	75	164	+ 20	+ 20	+ 20	+ 18	242
Cumulative Totals			184	204	224	242	

*Includes CALR Librarians

If resources are made available, it is projected that during fiscal year 1987, library personnel will be hired for the first time to open libraries at the courts in the following five locations:

First Circuit:	Portland, Maine
Second Circuit:	Bridgeport, Connecticut
Sixth Circuit:	Columbus, Ohio
Ninth Circuit:	Boise, Idaho
Eleventh Circuit:	Birmingham, Alabama

The 20 positions required in fiscal year 1987 to continue the development program of the United States Court Library System will be assigned as follows:

Circuit	Location	Number Professional	 Clerical
DC	Washington, DC	1	
First	Portland, ME		1
Second	New York, NY	1	
	Bridgeport, CT	1	
Fourth	Richmond, VA		2
Fifth	Houston, TX		1
	Brownsville, TX		1
Sixth	Columbus, OH	1	1
	Cleveland, OH		1
	Grand Rapids, MI		1
Seventh	Milwaukee, WI	1	
	Indianapolis, IN	1	
Eighth	St. Louis, MO	1	
Ninth	Honolulu, HI	1	
	Boise, ID		1
Eleventh	Birmingham, AL	1	1
	Atlanta, GA		1
TOTAL:		9	11

Summary

The sum of $403,000 is requested for these 20 additional personnel for the national court library system, ($344,000 for compensation and $59,000 for related benefits). This amount will provide for 9 new professional assistant librarian positions (JSP-9) and 11 new library clerical positions (JSP-5). In addition to their salaries and benefits, funds have also been included for the new positions under the headings "Expenses of Operation and Maintenance of the Courts."

Item 20. Temporary Law Clerk and Secretarial Support for Judicial Emergencies ($567,000)

The Judicial Conference has directed that circuit and district judges may be authorized to appoint temporary law clerks and secretaries in emergency situations where additional short-term staff support is essential to maintaining operational efficiency in the courts. Examples of such situations would be personal injury or illness among the authorized staff, complex multi-defendant and/or multi-district civil and criminal cases, large class action litigation, increased filings, and in certain instances, the assignment of cases to senior judges not authorized permanent staff.

In March 1985 the Conference adopted new procedures regulating the appointment of temporary personnel. Before such positions can be authorized, the requesting circuit or district judge must declare the existence of a judicial emergency and obtain the concurrence of the chief judge. Requests for temporary employees or extensions thereof, are then transmitted to the circuit judicial council "or such other committee or judge as the circuit council may direct for approval or disapproval for whatever term the circuit council, or such other committee or judge as the circuit council may direct, deems appropriate and necessary." The procedure for certifying judicial emergencies and requests for temporaries by bankruptcy judges and magistrates differs slightly by requiring the concurrence of the chief district judge.

As a matter of policy, the Judicial Conference views the appointment of temporary personnel as a last resort, to be used only after consideration has been given to case management techniques, such as the reallocation and reassignment of caseloads on a temporary basis. The current policy further states that temporary law clerks and secretaries should not be authorized judges assigned to the Temporary Emergency Court of Appeals, the Judicial Panel on Multidistrict Litigation, or those judges who serve on committees of the Judicial Conference.

It is estimated that 90 workyears of temporary emergency support will be required during fiscal year 1987. Since sufficient funds are in the appropriation base to support 70 temporary workyears, funds will be required for 20 additional workyears. Therefore, the sum of $567,000 is requested ($528,000 for compensation and $39,000 for related benefits) based on an average grade of JSP-11 ($26,381 per annum). The estimate makes no provision for temporary law clerks to bankruptcy judges since the appropriation base for fiscal year 1987 includes funds to support up to 28 workyears for temporary law clerks. Costs associated with temporary secretaries for bankruptcy judges and temporary emergency personnel for magistrates will be absorbed.

Item 21. Court Interpreters (6 positions, $180,000)

The Court Interpreters Act, Public Law 95-539, enacted October 28, 1978, provided for the more effective use of interpreters in courts of the United States. It authorized the creation of a program in Federal courts to assure that qualified interpreters are available to all parties needing their assistance in order to effectively take part in court proceedings.

The Court Interpreters Act significantly changed the use of interpreters in the courts. Prior to its enactment, interpretation services were not always provided for all court proceedings. In fiscal year 1980, 13 additional interpreter positions were authorized to provide for the implementation of this legislation. It was envisioned at that time that additional interpreters would be required as further experience was gained in the various district courts.

Currently there are 33 authorized interpreter positions in the district courts. Based on present requirements for interpretation services, six additional positions are requested for fiscal year 1987. (Note: These positions were originally requested in 1986 but were denied by the Congress.)

Four of these six permanent positions will be assigned to courts in 4 districts to replace certified free-lance interpreters whose earnings are based on a daily rate. Such action would be cost beneficial to the government. Contractual interpreters currently receive a daily rate of $175.00 for their services to the courts. By comparison, a salaried interpreter in grade JSP-11 would cost approximately $120.00 per day, including personnel benefits. Thus, by using a full-time salaried employee, the court would save an estimated $55.00 per day and a maximum of $13,800 a year (excluding paid annual leave and sick leave).

The remaining two positions will be allocated to the Western District of Texas for assignment in two divisional offices where certified free-lance interpreters are not currently available on a daily basis even though such services are required by the court.

The following table identifies the districts and the number of interpreter positions to be assigned each:

District	Positions
California (Central)	1
Florida (Southern)	1
New York (Southern)	1
Texas (Western)	2
Texas (Southern)	1
Total	6

The sum of $180,000 will provide for six positions at grade JSP-11 ($154,000 for personnel compensation and $26,000 for related benefits). In addition to their salaries and benefits, funds have also been included for these positions under the headings "Expenses of Operation and Maintenance of the Courts" and "Space and Facilities."

Item 22. Electronic Sound Recording Program (55 positions, no additional cost)

The Judiciary is requesting authorization for an additional 55 permanent deputy clerk positions at no additional cost to expand the ongoing electronic sound recording program in the district courts. Of this number, 25 positions would be dedicated to support Federal district judges while the remaining 30 would be assigned to bankruptcy judges in lieu of contractual stenographic reporters. These 55 positions were originally requested for fiscal year 1986 but were denied by the Congress.

The use of electronic sound recording to record judicial proceedings was first authorized in 1982, when Congress amended the Federal court reporting statute (viz., 28 U.S.C. 753(b)) to give each Federal district judge the option of using this method in place of "in-house" stenotype reporters. Following a period of Congressionally mandated testing and a study by the Federal Judicial Center, the Judicial Conference adopted regulations under 28 U.S.C. 753(b) authorizing electronic sound recording of court proceedings by Federal district court and bankruptcy judges, effective January 1, 1984. These regulations provide that any reduction in court reporter staff, arising through the use of electronic sound recording equipment would be accomplished through attrition. This stipulation did not apply to bankruptcy offices because of their reliance upon contractual stenographic reporting.

District Court Program

Funding to support an electronic sound recording program in the district courts was first authorized in fiscal year 1984 when the Congress approved a $660,000 request in the appropriation "Expenses of Operation and Maintenance of the Courts," for the purchase and maintenance of equipment. This amount remains available in the base appropriation. The following year (1985), 30 electronic court recorder positions to operate this equipment were authorized, to be offset by the elimination of 30 court reporter positions with a projected net savings of $120,000.

By the end of fiscal year 1985, 25 of the 30 authorized operator positions had been filled. Because of a lower than expected attrition rate only 9 court reporter positions had been eliminated instead of the 30 originally projected. However, because of expanded use among senior judges, the requirement for additional swing reporters was reduced resulting in a savings of 6 positions. In other cases, the need for contractual funds where daily attendance fees have risen dramatically in the past few years, has diminished considerably.

The fiscal year 1986 program contemplates allocation of the remaining 5 authorized electronic operator positions. It is conservatively estimated that during this period, an additional 7 court reporter positions will be saved through attrition and another 4 swing and pool court reporter positions which otherwise would have been requested for the additional senior judges and magistrates will not be established.

During fiscal year 1987, it is estimated that the continued placement of electronic sound recording equipment will result in the need for 25 additional electronic court recorder operators, offset by a further reduction of 14 court reporter positions presently filled and a cost avoidance of 5 court reporter positions that would not have to be created because of increased participation of senior judges in the program.

The following table summarizes the position requirements for the electronic sound recording program in the district courts and depicts the actual and projected savings in the number of court reporter positions abolished and the positions not requested to support new senior judges.

	FY 1985 Actual	FY 1986 Est.	FY 1987 Est.
Court Recorder Positions Authorized	25	25	30
(Cumulative)		(25)	(55)
Court Reporter Positions Abolished	9	7	14
(Cumulative)		(16)	(30)
Court Reporter Positions Not Created	6	4	5
(Cumulative)		(10)	(15)

Bankruptcy Program

To provide for an electronic sound recording program to support bankruptcy judges, the Congress, in fiscal year 1985, authorized 67 permanent operator positions and appropriated $670,000 for the purchase, installation and maintenance of equipment. This amount remains available in the appropriation "Expenses of Operation and Maintenance of the Courts." Because of anticipated savings in contractual stenographic costs, no funds were appropriated to support the positions.

Initial program efforts focused on providing full-time operators and recording equipment to bankruptcy judges incurring at least $20,000 in annual attendance fees for contract reporting services each. By the end of fiscal year 1985, 43 operator positions had been filled. During fiscal year 1986 the remaining 24 authorized positions will be allocated to bankruptcy offices meeting the necessary criteria. To further reduce contractual stenographic costs the Judiciary is requesting an additional 30 permanent positions in fiscal year 1987. These positions will be apportioned to provide part-time permanent operators to bankruptcy judges incurring at least $10,000 in attendance fees per annum. The estimated annual recurring cost of these new positions is $626,000 ($535,000 for personnel compensation and $91,000 for personnel benefits). Based on anticipated savings in contract costs, funding for this purpose was reprogrammed in fiscal year 1986. Consequently, additional reprogramming will not be required in fiscal year 1987.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

Summary of Requirements

Appropriation 1986 (enacted to date)	$61,800,000
Sequestered pursuant to P.L. 99-177	-2,657,000
Budget Authority, 1986	59,143,000
1987 budget estimate	74,785,000
Proposed Increase	15,642,000

Appropriation Language

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; [$61,800,000], to remain available until expended.

the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel,

$74,785,000

DEFENDER SERVICES
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page No.		1987 Request Perm. Pos.	1987 Request Amount
	Summary of changes:		
	Appropriation 1986 (enacted to date)	416	$61,800
	Sequestered pursuant to P.L. 99-177	...	-2,657
	Budget Authority, 1986	416	59,143
	Adjustments to base and built-in changes:		
7.6	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit and Control Act of 1985	...	+2,657
7.6	2. Restoration of reduced fiscal year 1986 budget authority resulting from the carry forward of an unobligated balance	...	+4,955
7.6	3. Restoration of the reduction to the fiscal year 1986 appropriation base	...	+2,200
7.6	4. Additional funding required based on increases in the number of persons represented and the cost of representation:		
	Federal Defender Organizations	+15	+2,529
	Panel Attorneys and Transcripts	...	+3,301
	Total increases requested	+15	+15,642
	Total appropriation requested, 1987	431	$74,785

DEFENDER SERVICES

Obligations by Activity

(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Federal Public Defenders	416	$22,203	431	$23,111	431	$23,111	...	$.....
Community Defender organizations (grants)	...	6,095	...	6,597	...	6,597	...	.....
Panel attorneys	...	39,026	...	42,227	...	42,227	...	.....
Transcripts	...	2,700	...	2,800	...	2,800	...	.....
General administrative expense	...	50	...	50	...	50	...	.....
Subtotal	416	70,074	431	74,785	431	74,785	...	.....
Sequestered pursuant to P.L. 99-177	...	-2,657	...	.....	...	.....	...	.....
Total obligations	416	67,417	431	74,785	431	74,785	...	.....
Unobligated balance, start of year	...	-8,274	...	.....	...	.....	...	.....
Budget Authority	416	$59,143	431	$74,785	431	$74,785	...	$.....

Object Classification

(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
11	Personnel compensation	$14,685	$15,741	$+1,056
12	Personnel benefits	2,046	2,230	+ 184
21	Travel and transportation of persons	511	536	+ 25
22	Transportation of things	20	11	- 9
23	Standard level user charges	1,896	1,959	+ 63
	Rental payments to others	41	41	...
	Communications, utilities, and miscellaneous charges	982	892	- 90
24	Printing and reproduction	50	53	+ 3
25	Other services:			
	Compensation and out-of-pocket expenses of court-appointed counsel	38,081	41,177	+3,096
	Transcripts	2,700	2,800	+ 100
	Investigators, interpreters, psychiatrists, and other experts	1,456	1,530	+ 74
	Other	461	491	+ 30
26	Supplies and materials	101	113	+ 12
31	Equipment	949	614	- 335
41	Grants	6,095	6,597	+ 502
	Subtotal	70,074	74,785	+4,711
	Sequestered pursuant to P.L. 99-177	-2,657	.....	+2,657
	Total obligations	$67,417	$74,785	$+7,368

Relation of Obligations to Outlays

(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net..........	$70,074	$-2,657	$67,417	$74,785	$ +7,368
Obligated balance, start of year...	32,200	.....	32,200	45,147	+12,947
Obligated balance, end of year.....	-46,500	1,353	-45,147	-55,200	-10,053
Outlays.....................	$55,774	$-1,304	$54,470	$64,732	$+10,262

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions..................	416	431	+15
Total compensable workyears: Full-time equivalent employment..............................	386	400	+14

General Statement

This appropriation is for the administration and operation of the Criminal Justice Act of 1964 (18 U.S.C. 3006A), as amended, which provides for furnishing representation for any person financially unable to obtain adequate representation: (1) who is charged with a felony or misdemeanor (other than a petty offense, unless the defendant faces the likelihood of loss of liberty), or with juvenile delinquency, or with a violation of probation; (2) who is under arrest, when such representation is required by law; (3) who is in custody as a material witness, or is seeking relief under Section 2241, 2254, or 2255 of Title 28, United States Code; (4) whose mental condition is the subject of a hearing pursuant to Chapter 313 of Title 18, United States Code; (5) for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which he faces loss of liberty, any federal law requires the appointment of counsel; or (6) who is entitled to appointment of counsel in parole proceedings under Chapter 311 of Title 18, United States Code. Representation shall include counsel and investigative, expert, and other services authorized pursuant to the Criminal Justice Act of 1964, as amended. The appropriation includes funding for the compensation and expenses of court-appointed counsel and for the operation of Federal Defender organizations.

The purpose of the Criminal Justice Act (CJA) is to provide effective representation for those with limited financial resources. Each district court is required to have a plan, approved by the judicial council of the circuit, for furnishing representation by private attorneys in a substantial proportion of cases and, in addition, may provide for attorneys furnished by a bar association or a legal aid agency, or attorneys furnished by a Federal Public or Community Defender organization. Any district or part of a district, or two adjacent districts or parts of districts, whether or not in the same district, in which at least 200 appointments are required annually, may establish a Federal Defender organization. The judicial council of the circuit shall, prior to approving the district court plan, supplement it with provisions for representation on appeal. Each district court and court of appeals of a circuit is required to submit reports, at such time and in such form as are specified by the Judicial Conference of the United States, to the Administrative Office of the United States Courts concerning the appointment of counsel within its jurisdiction. The Judicial Conference of the United States has the authority to issue rules and regulations governing the operation of the plans.

Payments from funds appropriated under this heading shall be made under the supervision of the Director of the Administrative Office of the United States Courts. References to basic statutory authorities are contained in the *Digest of Appropriations, The Judiciary*, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

The fiscal year 1986 budget base includes an additional 24 positions that were approved, based on workload, by the Judicial Conference at its March and September 1985 meetings. Funding for these positions is available from the unobligated balance carried forward from 1985.

Proposed Language Change

It is proposed that the appropriation language be amended to specifically provide for the compensation and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel. These so called "standby counsel" serve principally to protect and maintain the integrity of the judicial process, do not "represent" the defendant (since they are generally appointed over the defendant's objection), and actually provide a service to the court rather than to the accused. Since the language of the Criminal Justice Act does not authorize the appointment and compensation of counsel where the defendant has waived representation by counsel, these appointments are made pursuant to 5 U.S.C. 3109 which provides for the temporary or intermittent employment of experts and consultants. Most defendants who initially waive counsel ultimately withdraw their waiver and request that counsel be appointed. In these cases, attorneys initally appointed as standby counsel may be appointed and compensated under the Criminal Justice Act. By appointing standby counsel as an expert or consultant under 5 U.S.C. 3109, the court can assure that in every case standby counsel will receive compensation for his or her time, regardless of whether the appointment is ultimately converted into a "regular" Criminal Justice Act appointment. The proposed language, which would specifically provide that compensation payable to standby counsel appointed under 5 U.S.C. 3109 shall be consistent with the Criminal Justice Act maximums, is also necessary to authorize payment in excess of the maximum rate otherwise applicable to appointments under 5 U.S.C. 3109.

Justification of Changes

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit and Control Act of 1985 ($2,657,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $2,657,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Restoration of Reduced Fiscal Year 1986 Budget Authority Resulting from the Carry Forward of an Unobligated Balance ($4,955,000)

In the supplemental appropriations bill for fiscal year 1985, the Congress authorized that funds in certain appropriations remain available for obligation until the end of fiscal year 1986 (September 30, 1986). This was done with the intent that the balances in those appropriations at the end of fiscal year 1985 would be available for obligation in fiscal year 1986. As a result, the fiscal year 1986 approriations requests were subsequently reduced and in order to restore the appropriation base to the 1985 level, the sum of $4,955,000 has been included in this request. This represents part of the unobligated balance which was carried forward into 1986 for obligation.

Item 3. Restoration of the Reduction to the Fiscal Year 1986 Appropriation Base ($2,200,000)

In the appropriations bill for fiscal year 1986, the Congress reduced the 1986 appropriation base in order to achieve spending levels required by the budget reconciliation process. The sum of $2,200,000 has been included in this request to restore the appropriation base to the 1985 level.

Item 4. Additional Funding Required Based on Increases in the Number of Persons Represented and the Cost of Representation ($5,830,000)

Criminal filings have increased each year since 1980. In fiscal year 1984, criminal filings were approximately 6.9 percent higher than in 1983, and in fiscal year 1985, criminal filings were 5.0 percent higher than in 1984. The number of criminal defendants for whom counsel has been appointed pursuant to the Criminal Justice Act has also increased. This increased Criminal Justice Act activity is expected to continue in fiscal years 1986 and 1987. We anticipate that enforcement of several provisions of the Comprehensive Crime Control Act (CCCA) of 1984 will significantly impact on both the CJA caseload and workload. First, detention hearings under the Bail Reform Act of 1984 require many more hours both in and out of the court in connection with litigating pretrial release. Bail applications on appeal will be more time consuming, since the granting of bail pending appeal now requires the showing of "substantial questions of law or fact likely to result in a new trial or reversal."

Second, the Armed Career Criminal Act of 1984, which imposes a mandatory fifteen year prison term, will not only increase caseload, but the sentencing provisions will remove the incentive for the defendant to enter a guilty plea. The likely result will be an increase in the number of jury trials.

Third, prosecution efforts to apply the new criminal forfeiture provisions to the attorney's fees paid by a defendant who is the subject of criminal forfeiture procedures, could have a significant impact on the CJA caseload. If attorney's fees are subject to forfeiture, private counsel may be reluctant to accept such cases. The defendant may not have funds available to retain counsel because the funds may have been "impounded" pursuant to a restraining order and the defendant may not have any "untainted" funds. The net result could be an increase in the number of CJA appointments.

Fourth, the Sentencing Reform Act of 1984 will substantially change the nature of the sentencing process. More extensive preparation time will be required for sentencing hearings due to the establishment of sentencing guidelines as well as the elimination of the defendant's opportunity to file a motion to reconsider the sentence, as is now provided by Rule 35 of the Federal Rules of Criminal Procedures. In some cases this will also contribute to longer sentencing hearings. The option for both government and defense appeals of sentences outside the guidelines is expected to result in increased appellate litigation. Finally, the narrow range permitted for sentencing guidelines which include prison terms (the maximum term may not exceed the minimum by more than 25%) may remove some of the incentive to plead guilty and result in more cases going to trial.

In line with higher actual and projected case activity levels, it is estimated that representations under the Criminal Justice Act in the United States courts of appeals and district courts will increase 7.3 percent to 58,600 in fiscal year 1986 and 1.9 percent to 59,700 in 1987. These cases include appointments of counsel to represent persons charged with a felony or misdemeanor; persons charged with a petty offense who face the likelihood of a jail sentence; persons entitled to one of the many hearings provided for in the CCCA pursuant to Chapter 313 of Title 18, United States Code; petitioners in habeas corpus and section 2255 proceedings; material witnesses in custody; persons charged with violation of probation or parole; and offenders transferred to and from the United States pursuant to prisoner transfer treaties.

It is estimated that $5,830,000 (exclusive of the restoration of fiscal year 1986 budget authority) will be required in fiscal year 1987 to handle the projected increase in the number of persons represented and the increased cost of the Criminal Justice Act caseload.

Of the total increase requested in this item, $2,529,000 ($1,240,000 in new budget authority and $1,289,000 to restore the base appropriation resulting from an unobligated balance carried forward from prior fiscal years) will be required for Federal Defender organizations as a result of the rise in costs in personnel; General Services Administration (GSA) space rental; and expert, other services (including computer-assisted legal research) and supplies in Federal Defender organizations. It will also provide funding for 15 new positions in Federal Public Defender organizations: one additional assistant federal public defender and one additional secretary in California (Central), Illinois (Central and Southern) and Missouri (Eastern), and New Jersey; two additional assistant federal public defenders and one additional secretary in Florida (Middle) and Florida (Southern); one additional paralegal and one additional secretary in Hawaii; and one additional investigator/paralegal in Washington (Western) and Alaska. The sum of $3,201,000 will be required for private panel attorney compensation and reimbursable expenses and the compensation and expenses claimed by persons providing investigative, expert and other services in panel attorney cases. This requirement is based on projected increases in the complexity and protracted nature of the CJA workload. Also included in the amount of $5,830,000 is an additional $100,000 for transcripts. This amount requested is also based on projected increases in the complexity and protracted nature of cases which therefore results in an increase in the number of pages to be transcribed.

Taking into account these increases, an appropriation of $74,785,000 is requested for fiscal year 1987, which is $12,985,000 over the amount appropriated in 1986. The following is a schedule showing caseloads and costs of the Criminal Justice Act programs for fiscal years 1985, 1986, and 1987.

(Amount columns in thousands of dollars)

	F. Y. 1985 (Estimated)			F. Y. 1986			F. Y. 1987		
	Cases	Avg. Cost	Amount	Cases	Avg. Cost	Amount	Cases	Avg. Cost	Amount
Federal Defenders*	28,680	$ 782	$22,418	30,536	$ 927	$28,298	31,631	$ 939	$29,708
Panel Attorneys									
Appeal Cases	2,175	3,250	6,362**	2,325	3,480	7,282**	2,325	3,725	7,795**
District Cases	23,745	1,330	26,883**	25,739	1,425	30,799**	25,744	1,525	33,382**
Subtotal, Panel Attorneys	25,920	1,425-	33,245**	28,064	1,525	38,081**	28,069	1,620	41,177**
Related Investigative, Expert, and Other Services		31	755		34	945		37	1,050
Total, Panel Attorneys and Other Services	25,920	1,456	34,000**	28,064	1,559	39,026**	28,069	1,667	42,227**
Subtotal, Defenders, Panel Attorneys, and Other Services	54,600	1,033	56,418	58,600	1,149	67,324	59,700	1,205	71,935
Transcripts			2,625			2,700			2,800
General Administrative Expense			8			50			50
Total	54,600	$1,082	$59,051	58,600	$1,196	$70,074	59,700	$1,253	$74,785

*The term Federal Defenders includes both Federal Public and Community Defender organizations.
**Adjusted to reflect the fact that not all assignments result in the filing of claims and payments therefor.

The details of the budgetary requirements for the Criminal Justice Act programs are explained below.

Federal Defender Organizations

The Criminal Justice Act, as amended (Public Law 91-447, 84 Stat. 916, October 14, 1970), authorizes the establishment of Federal Defender organizations. Each Federal Public Defender organization is required to submit its proposed budget to the Director of the Administrative Office of the United States Courts. The Director in turn submits a budget for each organization to the Judicial Conference Committee to Implement the Criminal Justice Act. This Committee in turn submits a budget recommendation for each organization to the Judicial Conference of the United States. Budgets for each Defender organization are approved by the Judicial Conference before being included in the budget of the Judiciary. The statute provides that the Federal Public Defender shall be appointed by the court of appeals for a term of four years and that the compensation to be paid to him shall be fixed by the court of appeals at a rate not to exceed the compensation received by the United States Attorney for the same district. The court of appeals also is authorized to approve the number of full-time attorneys employed by the Federal Public Defender office. All other personnel of the staff of the Federal Public Defender shall be appointed in such number as shall be approved by the Director of the Administrative Office of the United States Courts.

A Community Defender organization is a nonprofit defense counsel service established and administered by a group authorized by a district court Criminal Justice Act plan with the approval of the judicial council of the circuit. Such organizations are eligible to furnish legal representation and receive payments for services rendered in and out of court in the same manner and to the same extent as private attorneys are compensated under the Act. Community Defender organizations may apply for and receive, with the approval of the Judicial Conference of the United States, an initial grant for expenses necessary to establish the organization and, in lieu of fees, sustaining grants to cover the cost of their operations. Currently, each of the Community Defender organizations is operating with a sustaining grant, in lieu of fees. Sustaining grant funds may be used to pay compensation at levels comparable to and in accordance with the same standards and guidelines applicable to personnel compensation for Federal Public Defender organizations. The process of approving Community Defender organizations sustaining grants is similar to the process for approving Federal Public Defender organization budgets.

The cost of operating the 41 Federal Defender organizations in fiscal year 1985 will be approximately $22.4 million. During the fiscal year they were assigned 28,680 cases and disposed of 28,368. As of September 30, 1985, there were 8,185 cases pending. The overall Federal Defender cost per case in fiscal year 1985 is estimated to be $782. This compares favorably with the $1,456 cost per case for Criminal Justice Act panel attorneys, particularly when it is considered that the below market panel attorney compensation rates reflect reliance upon the obligation of attorneys to provide services pro bono publico and that the Federal Defender organizations are performing other services for and on behalf of the courts. These services include advising, counseling, and providing training to panel attorneys and often the general administration of the CJA panel, including relieving the court of the burden of determining panel attorney availability for assignments and screening of Criminal Justice Act vouchers. In many instances the most complex and protracted cases are assigned to Federal Defender offices, either in recognition of their efficiency, competence, expertise, experience, and availability, or because panel attorneys find it an economic hardship to become involved in protracted cases.

Federal Defenders were asked to submit their budget and grant requirements for fiscal year 1987, and revised estimates for fiscal year 1986 to take into account pay increases authorized in January 1985.

The increase for Federal Defender organizations from 1986 to 1987 is $1,410,000 and anticipates the fully operational status of a federal public defender branch office in the District of Alaska (to combine with the already established Federal Public Defender organization in the Western District of Washington) to be established during fiscal year 1986. The Federal Defenders expect to receive 31,631 cases in 1987, compared with 30,536 in 1986 and 28,680 in 1985.

The following charts detail the budgets and grants approved for fiscal year 1986 (including supplementals) and approved by the Judicial Conference Committee to Implement the Criminal Justice Act for fiscal year 1987. The first chart for each fiscal year gives details by object classification and the second shows the staffing requirements of each organization.

FEDERAL DEFENDER ORGANIZATIONS
BUDGETARY REQUIREMENTS - FISCAL YEAR 1986

	Personnel				Rent, Communications, & Utilities			Other Services							Est'd Number Persons	
	Comp.	Benefits	Travel	Transp. of Things	Office Space Rental	Other	Printing	Expert Services	Misc. Contr. Services	Supplies	Equip.	Other	Grants	Total	Represented	Cost Per Case
Ariz.	$ 650,011	$ 87,751	$ 23,400	$ 300	$ 87,000	$ 40,843	$ 850	$ 13,200	$ 7,100	$ 2,850	$ 10,500	$ ...	$ ...	$ 923,805	906	$1,020
Cal. (N)	763,047	103,011	23,000	100	90,000	40,450	100	38,100	8,800	3,800	19,750	...	...	1,090,158	1,324	823
Cal. (E)	662,920	89,485	12,000	100	63,700	36,040	1,000	24,940	8,020	4,000	42,850	...	...	945,066	1,199	788
Cal. (C)	1,303,338	178,742	21,400	...	266,828	96,625	3,000	35,000	15,150	11,100	98,840	...	...	2,030,023	1,749	1,161
Cal. (S)*	(856,243)	(157,548)	(19,040)	(500)	(164,400)	(62,700)	(2,500)	(20,350)	(16,900)	(10,400)	(39,415)	(6,800)	1,356,796	1,356,796	4,824	281
Colo.	339,390	46,682	7,500	100	38,000	16,736	600	11,200	4,750	2,600	17,200	...	...	484,758	468	1,036
Conn.	274,341	37,036	9,500	...	53,000	23,710	1,000	10,500	4,800	1,750	24,800	...	...	440,437	330	1,335
Fla. (N)	220,902	29,822	8,700	...	33,400	15,100	400	4,617	1,480	1,350	13,300	...	...	329,071	330	997
Fla. (M)	439,236	59,297	13,500	...	55,000	26,870	450	9,600	7,200	3,000	34,600	...	...	648,753	666	974
Fla. (S)	1,190,734	166,511	26,610	700	157,582	53,581	1,761	20,400	38,594	6,975	48,017	...	...	1,711,465	1,756	975
Ga. (N)*	(321,759)	(60,000)	(8,200)	(250)	(36,400)	(16,500)	(1,300)	(7,500)	(6,300)	(3,800)	(8,500)	(4,850)	475,359	475,359	482	986
Ga. (S)	218,654	29,518	10,000	250	24,014	14,565	750	6,500	4,850	2,500	16,750	...	...	328,351	224	1,466
Hawaii	480,785	65,171	30,500	...	63,000	17,850	800	82,500	12,100	3,500	31,200	...	...	767,406	571	1,379
Ill. (N)*	(524,855)	(94,474)	(6,000)	...	(98,400)	(23,000)	(1,800)	(13,500)	(6,000)	(6,000)	(19,500)	(3,378)	796,907	796,907	640	1,245
Ill (C&S) & Mo. (E)	304,813	41,190	14,540	...	20,670	19,074	600	8,600	9,250	2,400	23,600	...	...	444,737	450	988
Kansas	272,277	36,757	15,700	...	24,300	19,391	500	8,500	3,250	2,000	9,700	...	...	392,375	435	902
La. (E)	331,172	44,709	4,500	100	41,000	14,416	300	6,750	3,700	2,500	16,100	...	...	465,247	376	1,237
Md.	568,150	76,700	12,250	...	93,250	39,163	900	27,000	6,000	3,600	16,000	...	...	843,013	1,025	822
Mass.	233,204	31,078	3,500	...	48,000	13,139	735	6,260	2,825	1,225	6,000	...	...	345,966	245	1,412
Mich (E)*	(571,167)	(101,275)	(15,200)	...	(66,000)	(24,900)	(1,500)	(4,500)	(7,800)	(4,300)	(8,750)	(6,900)	812,292	812,292	666	1,220
Minn.	184,354	24,888	7,200	...	24,000	11,263	650	16,000	4,488	1,500	8,100	...	...	282,448	275	1,027
Mo. (W)	436,007	58,861	9,000	...	33,000	19,775	400	10,200	4,200	2,400	12,000	...	...	585,843	572	1,024
Nevada	376,801	52,644	16,000	500	54,000	26,200	500	9,000	7,800	2,800	27,600	...	...	573,845	612	938
N.J.	602,841	81,316	13,300	...	45,000	37,565	900	11,500	2,850	1,850	16,000	...	...	813,122	830	980
N.M.	249,174	33,638	9,500	125	31,665	10,915	575	12,300	4,151	2,000	15,450	...	...	369,493	312	1,184
NY (E&S)*	(1,254,000)	(298,177)	(24,200)	...	(138,000)	(88,400)	(1,800)	(34,600)	(8,700)	(18,200)	(59,100)	(83,500)	2,008,677	2,008,677	2,030	989
N.C. (E)	244,935	41,639	9,500	300	20,990	21,800	500	10,000	4,900	2,500	13,150	...	...	370,214	357	1,037
Ohio (N)	251,315	33,914	7,000	300	19,600	15,040	100	4,500	4,100	1,800	6,300	...	...	343,989	228	1,509
Oklahoma	252,258	42,884	14,000	300	45,000	25,450	1,000	16,500	7,100	2,500	15,000	...	...	421,992	338	1,248
Oregon	390,933	52,776	16,500	250	47,310	31,008	400	14,500	13,980	4,000	16,000	...	...	587,657	388	1,515
Pa. (E)*	(437,356)	(69,925)	(8,200)	(1,500)	(46,260)	(22,250)	(600)	(9,500)	(5,000)	(4,200)	(18,220)	(22,000)	645,011	645,011	570	1,132
Pa. (M&W)	463,162	70,424	23,000	700	79,050	42,308	1,900	21,300	8,950	5,200	33,600	...	...	749,594	433	1,731
P.R.	336,204	45,634	8,000	5,000	31,000	13,854	700	5,600	9,450	1,750	16,300	...	...	473,492	470	1,007
S.C.	248,244	33,513	19,000	...	18,200	9,775	600	7,000	2,100	1,200	6,610	...	...	346,242	310	1,117
Tenn. (M)	265,286	35,814	10,750	500	27,431	17,450	500	6,000	3,100	2,000	17,000	...	...	385,831	309	1,249
Tenn. (W)	161,844	21,849	4,800	...	14,000	7,380	200	3,000	2,150	600	3,900	...	...	219,723	223	985
Tex. (S)	611,193	82,512	21,050	8,550	73,098	33,730	300	9,900	7,050	2,900	75,300	...	...	925,563	1,510	613
Tex. (W)	567,702	76,640	17,500	220	55,000	32,928	650	6,000	4,450	3,500	25,900	...	...	790,490	1,009	783
V.I.	335,410	45,075	13,000	1,000	37,000	13,223	300	5,800	2,800	1,600	22,000	...	...	477,208	346	1,379
Wash. (W) & Alaska	476,608	68,471	23,000	500	102,800	44,155	1,100	23,100	17,300	4,900	85,850	...	...	847,794	587	1,444
W.Va. (S)	147,334	19,890	7,500	...	20,000	12,880	200	4,700	2,475	825	6,500	...	...	222,314	163	1,364
CMLR	...	...	...	...	...	...	...	...	200,000	...	50,000	...	...	250,000	...	...
TRLSMS	...	...	...	...	...	68,000	...	...	10,000	...	47,000	...	...	125,000	...	...
Cong. Adj.	(170,000)	...	...	...	...	...	...	...	...	...	...	...	...	(170,000)	...	...
TOTAL	$14,684,584	$2,045,852	$486,300	$19,885	$1,936,888	$982,282	$25,221	$510,567	$461,263	$100,975	$948,767	$ ...	$6,095,042	$28,297,546	30,536	$ 927

*Indicates Community Defender organization. Since these private organizations are funded out of the object classification "grants," their estimated requirements by category are shown as non-add items and are not included in the totals for those respective classifications.

FEDERAL DEFENDER ORGANIZATIONS
PERMANENT POSITIONS - FISCAL YEAR 1986

	Federal Defenders	Assistant Federal Defenders	Investigators	Paralegals	Administrative Assistant/ Secretary/ Clerical	Total
Arizona............	1	8	3	-	7	19
Cal.(N)............	1	9	1	2	7	20
Cal.(E)............	1	7	2	1	6	17
Cal.(C)............	1	17	5	1	16	40
Cal.(S)*...........	(1)	(10)	(4)	(2)	(9)	(26)
Colorado...........	1	4	1	-	3	9
Connecticut........	1	3	1	-	2	7
Fla.(N)............	1	2	1	1	2	7
Fla.(M)............	1	5	2	-	4	12
Fla.(S)............	1	21	4	2	15	43
Ga.(N)*............	(1)	(4)	(1)	(-)	(3)	(9)
Ga.(S).............	1	2	1	-	3	7
Hawaii.............	1	4	1	1	3	10
Ill.(N)*...........	(1)	(6)	(2)	(1)	(4)	(14)
Ill.(C&S) & MO(E)..	1	4	1	-	2	8
Kansas.............	1	3	-	-	2	6
La.(E).............	1	4	1	-	3	9
Maryland...........	1	7	2	1	5	16
Mass...............	1	2	1	-	2	6
Mich.(E)*..........	(1)	(8)	(1)	(1)	(5)	(16)
Minn...............	1	2	-	-	2	5
Mo.(W).............	1	5	1	-	4	11
Nevada.............	1	4	1	2	3	11
New Jersey.........	1	7	3	-	4	15
New Mexico.........	1	2	1	1	2	7
N.Y.(E&S)*.........	(1)	(19)	(4)	(-)	(11)	(35)
N.C. (E)...........	1	3	1	-	2	7
Ohio (N)...........	1	2	1	-	2	6
Oklahoma...........	1	3	1	-	2	7
Oregon.............	1	4	2	-	4	11
Pa.(E)*............	(1)	(6)	(1)	(-)	(4)	(12)
PA (M&W)...........	1	6	2	-	4	13
Puerto Rico........	1	4	1	-	3	9
S.C................	1	3	1	-	2	7
Tenn.(M)...........	1	3	1	-	2	7
Tenn.(W)...........	1	1	1	-	1	4
Texas (S)..........	1	9	2	-	6	18
Texas (W)..........	1	8	2	-	5	16
V.I................	1	3	2	1	2	9
Wash.(W) & Alaska..	1	6	1	1	4	13
W.Va.(S)...........	1	1	1	-	1	4
TOTAL...........	35	178	52	14	137	416

*Indicates Community Defender organization. Since these offices operate on sustaining grants and are private organizations rather than agencies of the federal government, their employees are not technically federal employees. Thus, the positions are shown in parentheses as non-add items and are not included in the totals.

FEDERAL DEFENDER ORGANIZATIONS
BUDGETARY REQUIREMENTS - FISCAL YEAR 1987

	Personnel				Rent, Communications, & Utilities			Other Services							Est'd Number Persons	
	Comp.	Benefits	Travel	Transp. of Things	Office Space Rental	Other	Printing	Expert Services	Misc. Contr. Services	Supplies	Equip.	Other	Grants	Total	Represented	Cost Per Case
Ariz......	$ 678,007	$ 94,921	$ 23,400	$ 300	$ 92,000	$ 38,736	$ 850	$ 12,200	$ 7,600	$ 3,000	$ 15,300	$ ...	$ ...	$ 966,314	906	$1,067
Cal. (N)...	792,457	110,943	24,900	100	98,000	39,442	350	41,600	7,700	4,070	20,000	...	...	1,139,562	1,389	820
Cal. (E)...	689,940	96,593	12,500	100	63,700	38,667	1,000	23,740	6,285	4,000	18,325	...	...	954,830	1,222	781
Cal. (C)...	1,344,515	188,232	21,800	...	220,000	96,921	3,500	39,000	15,150	11,100	36,750	...	...	1,976,968	1,749	1,130
Cal. (S)*..	(888,004)	(171,178)	(19,440)	(500)	(178,391)	(88,225)	(3,000)	(22,100)	(19,150)	(11,400)	(44,005)	(7,000)	1,442,383	1,442,383	5,024	287
Colo......	357,558	50,058	7,500	100	38,000	14,588	600	11,200	4,750	2,800	10,500	...	...	497,654	468	1,063
Conn......	284,080	39,771	8,500	...	55,000	23,801	1,250	12,500	6,000	2,000	12,500	...	...	445,402	343	1,299
Fla. (N)...	230,780	32,309	10,400	...	35,000	14,859	360	3,500	1,430	1,200	11,500	...	...	341,338	363	940
Fla. (M)...	521,604	73,025	16,000	...	66,500	29,370	450	10,500	9,500	3,300	28,250	...	...	758,499	767	989
Fla. (S)...	1,364,510	191,031	33,555	200	157,582	42,325	2,000	18,750	37,230	7,500	24,845	...	...	1,879,528	1,905	987
Ga. (N)*...	(340,552)	(61,467)	(8,500)	(250)	(40,800)	(19,980)	(1,500)	(7,000)	(5,800)	(4,300)	(10,900)	(6,150)	507,199	507,199	501	1,012
Ga. (S)....	212,550	29,757	9,000	300	24,014	10,740	500	6,000	4,850	2,500	13,250	...	...	313,461	253	1,239
Hawaii....	476,706	66,739	15,500	...	63,000	16,735	800	15,500	8,000	2,500	26,500	...	...	691,980	600	1,153
Ill. (N)*..	(548,740)	(100,000)	(7,000)	...	(98,400)	(22,000)	(1,000)	(11,500)	(7,000)	(6,000)	(15,000)	(2,960)	819,600	819,600	610	1,344
Ill(C&S) & Mo(E)...	358,626	50,208	17,180	...	22,270	21,504	1,350	9,350	9,750	2,800	10,350	...	...	503,388	483	1,042
Kansas....	281,841	39,457	16,200	...	24,300	18,495	500	9,000	3,250	2,000	13,700	...	...	408,743	460	889
La. (E)....	347,065	48,589	5,250	200	44,000	17,441	300	6,750	4,100	3,000	8,500	...	...	485,195	376	1,290
Md........	576,668	80,734	14,500	...	93,250	41,250	1,000	33,500	10,000	5,000	33,450	...	...	889,352	1,050	847
Mass......	243,326	33,646	5,100	...	48,000	12,368	775	6,600	8,100	1,300	6,300	...	...	365,515	255	1,433
Mich(E)*..	(593,831)	(108,074)	(14,200)	...	(69,000)	(29,500)	(1,500)	(4,700)	(8,750)	(5,000)	(8,200)	(8,200)	850,955	850,955	695	1,224
Minn......	192,988	27,018	7,200	...	24,000	11,013	650	24,000	4,500	1,500	9,500	...	...	302,369	275	1,100
Mo. (W)....	450,699	63,098	8,200	...	44,000	18,980	500	10,200	4,400	2,500	18,000	...	...	620,577	580	1,070
Nevada....	393,410	55,078	16,000	600	68,000	22,279	750	9,400	6,400	3,300	18,700	...	...	593,917	644	922
N.J.......	670,480	93,867	14,500	...	45,000	35,830	900	14,000	6,000	2,500	20,000	...	...	903,077	830	1,088
N.M.......	255,687	35,796	11,550	150	31,685	9,034	750	14,800	4,415	2,100	8,300	...	...	374,267	312	1,200
NY(E&S)*..	(1,459,000)	(347,880)	(26,700)	...	(174,000)	(100,100)	(2,400)	(37,500)	(11,900)	(21,600)	(40,000)	(85,300)	2,306,380	2,306,380	2,065	1,117
N.C.......	261,412	44,440	17,000	300	25,000	21,925	500	12,000	6,000	3,000	11,000	...	...	402,577	357	1,128
Ohio(N)...	259,268	36,297	7,000	300	19,600	14,965	100	4,000	4,500	1,800	5,800	...	...	353,630	228	1,551
Oklahoma..	262,160	44,567	15,500	300	47,500	21,025	1,000	19,000	8,000	3,000	18,000	...	...	440,052	387	1,137
Oregon....	404,508	56,640	16,500	250	47,730	29,652	400	17,500	21,020	4,800	23,800	...	...	622,800	400	1,557
Pa. (E)*...	(465,282)	(73,185)	(9,000)	...	(51,550)	(20,550)	(700)	(12,000)	(6,800)	(4,200)	(5,700)	(22,000)	670,967	670,967	575	1,167
Pa. (W&M)..	483,717	75,705	26,000	700	83,050	43,625	2,150	24,800	12,950	5,850	26,700	...	...	785,247	444	1,769
P.R.......	347,051	48,587	7,500	5,000	36,000	15,983	500	4,000	6,850	2,500	9,500	...	...	483,471	495	977
S.C.......	254,430	35,621	19,000	...	21,000	8,130	600	7,000	2,100	1,200	6,990	...	...	356,070	310	1,149
Tenn. (W)..	281,402	39,396	12,250	200	32,796	17,300	500	6,000	3,500	2,500	9,200	...	...	405,044	300	1,350
Tenn. (M)..	167,326	23,425	5,600	...	16,900	6,912	200	5,150	2,300	600	4,200	...	...	232,273	232	1,001
Tex. (S)...	666,199	90,475	20,400	300	67,380	34,314	300	10,400	4,080	3,000	21,675	...	...	918,523	1,550	593
Tex. (W)...	607,636	85,069	19,000	242	64,370	31,925	400	6,600	4,965	4,800	16,700	...	...	841,707	1,100	765
V.I.......	354,010	49,561	14,400	400	38,500	13,223	500	6,000	5,500	2,500	15,900	...	...	500,494	346	1,447
Wash. (W)& Alaska..	532,788	79,318	24,500	700	102,820	46,429	1,100	20,450	11,900	6,500	22,100	...	...	848,605	619	1,371
W.Va. (S)..	145,534	20,375	8,000	...	20,000	12,401	200	4,800	2,775	825	8,000	...	...	222,910	163	1,368
CMLR......	...	...	...	...	...	...	...	...	225,000	...	50,000	...	...	275,000	...	...
TOTAL.....	$15,743,066	$2,230,346	$511,385	$10,742	$1,999,497	$882,186	$27,595	$479,750	$480,880	$112,845	$614,075	$ ...	$6,597,484	$29,707,871	31,632	$ 939

*Indicates Community Defender organization. Since these private organizations are funded out of the object classification "grants," their estimated requirements by category are shown in parentheses as non-add items and are not included in the totals for those respective classifications.

FEDERAL DEFEND[illegible]GANIZATIONS
PERMANENT POSITIONS - FISCAL YEAR 1987

	Federal Defenders	Assistant Federal Defenders	Investigators	Paralegals	Administrative Assistant/ Secretary/ Clerical	Total
Arizona............	1	8	3	-	7	19
Cal. (N)............	1	9	1	2	7	20
Cal. (E)............	1	7	2	1	6	17
Cal. (C)............	1	18	5	1	17	42
Cal. (S)*...........	(1)	(10)	(4)	(2)	(9)	(26)
Colorado...........	1	4	1	-	3	9
Connecticut........	1	3	1	-	2	7
Fla. (N)............	1	2	1	1	2	7
Fla. (M)............	1	7	2	-	5	15
Fla. (S)............	1	23	6	2	[illegible]	46
Ga. (N)*............	(1)	(4)	(1)	(-)	(3)	(9)
Ga. (S).............	1	2	1	-	3	7
Hawaii.............	1	4	1	2	4	12
Ill. (N)*...........	(1)	(6)	(2)	(1)	(4)	(14)
Ill. (C&S) & MO(E)..	1	5	1	-	3	10
Kansas.............	1	3	-	-	2	6
La. (E).............	1	4	1	-	3	9
Maryland...........	1	7	2	1	5	16
Mass...............	1	2	1	-	2	6
Mich. (E)*..........	(1)	(8)	(1)	(1)	(5)	(16)
Minn...............	1	2	-	-	2	5
Mo. (W).............	1	5	1	-	4	11
Nevada.............	1	4	1	2	3	11
New Jersey.........	1	8	3	-	5	17
New Mexico.........	1	2	1	1	2	7
N.Y. (E&S)*.........	(1)	(21)	(6)	(2)	(13)	(41)
N.C. (E)............	1	3	1	-	2	7
Ohio (N)...........	1	2	1	-	2	6
Oklahoma...........	1	3	1	-	2	7
Oregon.............	1	4	2	-	4	11
Pa. (E)*............	(1)	(6)	(1)	(-)	(4)	(12)
Pa. (M&W)...........	1	6	2	-	4	13
Puerto Rico........	1	4	1	-	3	9
S.C................	1	3	1	-	2	7
Tenn. (M)...........	1	3	1	-	2	7
Tenn. (W)...........	1	1	1	-	1	4
Texas (S)..........	1	9	2	-	6	18
Texas (W)..........	1	8	2	-	5	16
V.I................	1	3	2	1	2	9
Wash. (W) & Alaska..	1	6	2	1	4	14
W.Va. (S)...........	1	1	1	-	1	4
TOTAL.......	35	185	53	15	142	431

*Indicates Community Defender organization. Since these offices operate on sustaining grants and are private organizations rather than agencies of the federal government, their employees are not technically federal employees. Thus, the positions are shown in parentheses as non-add items and are not included in the totals.

Representation by Panel Attorneys

With the enactment of Chapter XIX of the Comprehensive Crime Control Act of 1984 (Title II, P.L. 98-473, 98 Stat. 1873, October 12, 1984), the Criminal Justice Act was amended to provide that private panel attorneys may be compensated at rates not exceeding $60 per hour for time expended in court or before a United States magistrate, and $40 per hour for time reasonably expended out of court.

Chapter XIX of the Comprehensive Crime Control Act of 1984 also increased compensation maximums under the Criminal Justice Act (exclusive of reimbursable expenses) to $2,000 for an appeal or in a case in which one or more felonies are charged; $800 in a case in which only misdemeanors are charged; and $500 in connection with a post trial motion made after the entry of judgment, or in a probation revocation proceeding, or for representation of any persons subject to revocation of parole, in custody as a material witness, or seeking relief under Section 2241, 2254, or 2255 of Title 28, United States Code. Payments in excess of these limitations may be made to provide fair compensation in cases involving extended or complex representation when so certified by the presiding judicial officer and approved by the chief judge of the United States court of appeals.

During fiscal year 1985, approximately 25,920 persons will be represented by panel attorneys under the Criminal Justice Act; 2,175 in the United States courts of appeals and 23,745 in the United States district courts. The average cost per case, excluding transcripts, is expected to be approximately $3,250 for services on appeal and $1,330 for services other than appeal. The composite average cost will be $1,456 per case. Based on past experience, the projected composite average cost of representation by panel attorneys for fiscal year 1986 will be $1,559 and for fiscal year 1987 will be $1,667. By comparison, the cost per case for representation by Federal Defender organizations is projected to be $927 in fiscal year 1986 and $939 in fiscal year 1987. The following table shows the number of persons represented by panel attorneys in the United States courts of appeals and district courts and the average cost per case (exclusive of transcripts) during the past four years and estimates for fiscal years 1985, 1986, and 1987:

	U. S. Courts of Appeals		U. S. District Courts		Total Costs			
Fiscal Year	No. Cases	Avg. Atty. Cost	No. Cases	Avg. Atty. Cost	No. Cases	Avg. Atty. Cost	Avg. Expert Cost	Avg. Cost
1981	1,725	$1,114	20,549	$468	22,274	$514	$24	$538
1982	1,983	1,276	21,816	528	23,799	582	23	605
1983	2,002	1,375*	22,001	558	24,003	610	33	643
1984*	2,100	1,625*	22,832*	651	24,932	725	27	752
Estimates								
1985	2,175	3,250	23,745	1,330	25,920	1,425	31	1,456
1986	2,325	3,480	25,739	1,425	28,064	1,525	34	1,559
1987	2,325	3,725	25,744	1,525	28,089	1,630	37	1,667

*Since there are a substantial number of outstanding claims figures are projections based on currently available data and historical trends.

The projected costs of representation by panel attorneys, exclusive of transcripts, for fiscal years 1986 and 1987 are $39,026,000 and $42,227,000, respectively.

Investigative, Expert, and Other Services (Excluding Transcripts)

Investigative, expert, and other services necessary for an adequate defense also are available to persons who are being represented under the Act, and in some circumstances to persons who have retained counsel but are financially unable to secure the "other" services. The federal courts during fiscal year 1985 authorized investigative, expert, and other services, excluding transcripts, at a rate which projects to a final total of approximately $1,194,000; an increase of $217,191 (22.2 percent) over the amounts incurred to date for fiscal year 1984. Based on the projected caseload, it is expected that expenditures for such services will increase in fiscal years 1986 and 1987. The decrease in the amount required for Federal Defender organizations for fiscal year 1987 is related to investigative services no longer required by the Federal Public Defender in Hawaii. These funds were allocated to this organization in fiscal years 1985 and 1986 for a specific case which required extensive use of investigative services. The following table shows the actual cost of these services for the United States courts for fiscal years 1981 through 1984, and the estimates for fiscal years 1985, 1986, and 1987. The increase in requirements for fiscal year 1987 is $80,000: a decrease of $25,000 for Federal Defender organizations and $105,000 for representation by panel attorneys. These increments have been included under the respective sections above.

Expert Services	Actual				Estimates			FY 1987 over FY 1986
	1981	1982	1983	1984	1985	1986	1987	
Investigators	$227,136	$209,667	$295,318	$244,241	$ 410,000	$ 432,000	$ 393,000	$-39,000
Interpreters	88,873	110,048	136,573	181,280	187,000	309,000	329,000	20,000
Psychiatrists	258,156	226,662	238,509	223,162	319,000	405,000	426,000	21,000
Other Experts	189,247	197,700	323,291	328,126	278,000	399,000	477,000	78,000
Total Cost	$763,412	$744,077	$993,691	$976,809	$1,194,000	$1,545,000	$1,625,000	$ 80,000
Breakdown of Cost:								
Federal Defender organizations	262,099	216,891	224,852	246,605	439,000	600,000	575,000	-25,000
Panel attorneys	501,313	527,186	768,839	730,204	755,000	945,000	1,050,000	105,000

Fees for Transcripts Pursuant to 28 U.S.C. 753(f)

Payments relating to fees for transcripts of judicial proceedings involving eligible persons pursuant to 28 U.S.C. 753(f) are also authorized under the Criminal Justice Act. The following table shows the transcript payments, including estimates, from 1981 through 1987.

Fiscal Year	Amount	Increase
Actual		
1981	1,726,791	......
1982	2,224,781	$ 497,990
1983	2,505,131	280,350
1984	2,155,180	-349,951
Projected		
1985	2,625,000	469,820
1986	2,700,000	75,000
1987	2,800,000	100,000

The House Committee on Appropriations in its report on Judiciary appropriations for fiscal year 1985 (Number 98-802), expressed concern over increases in the cost of transcripts provided pursuant to the Criminal Justice Act experienced in past years and requested that the Administrative Office undertake a review of such costs. The Administrative Office shared the Committee's concern and responded to the Committee's request by establishing a task force which, after studying the matter, concluded that increases in maximum rates per page for transcript fees and the growth in the number and complexity of multiple defendant criminal proceedings accounted for the increased costs.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

FEES OF JURORS AND COMMISSIONERS

Summary of Requirements

Appropriation 1986 (enacted to date)	$43,400,000
Sequestered pursuant to P.L. 99-177	-1,866,000
Proposed program supplemental	3,800,000
Budget Authority, 1986	45,334,000
1987 budget estimate	48,200,000
Proposed Increase	2,866,000

Appropriation Language

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Pocedure; [$43,400,000] $48,200,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

FEES OF JURORS AND COMMISSIONERS
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page No.		1987 Request Perm. Pos.	1987 Request Amount
	Summary of changes:		
	Appropriation 1986 (enacted to date)	...	$43,400
	Sequestered pursuant to P.L. 99-177	...	-1,866
	Proposed program supplemental	...	3,800
	Budget Authority, 1986	...	45,334
	Adjustments to base and built-in changes:		
8.5	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+1,866
8.5	2. Increases in mileage allowance for grand and petit jurors	...	+250
8.5	3. Projected increase in petit jury trials	...	+750
	Total increase requested	...	+2,866
	Total appropriation requested, 1987	...	$48,200

FEES OF JURORS AND COMMISSIONERS

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent Comparison by activities:	1986* Appropriation Perm. Pos.	1986* Appropriation Amount	1986 Adjusted (Base for 1987) Perm. Pos.	1986 Adjusted (Base for 1987) Amount	1987 Request Perm. Pos.	1987 Request Amount	Increase 1987 over 1986 as Adjusted Perm. Pos.	Increase 1987 over 1986 as Adjusted Amount
Jury commissioners	...	$ 55	...	$ 55	...	$ 55	...	$.....
Land commissioners	...	450	...	450	...	450	...	.....
Grand jurors	...	12,985	...	13,060	...	13,060	...	.....
Petit jurors	...	33,710	...	34,635	...	34,635	...	.....
Subtotal	...	47,200	...	48,200	...	48,200	...	.....
Sequestered pursuant to P.L. 99-177	...	-1,866	...	.....	...	.....	...	.....
Total obligations	...	$45,334	...	$48,200	...	$48,200	...	$.....

Object Classification
(In thousands of dollars)

		1986* Estimate	1987 Estimate	Difference (+) or (-)
11	Personnel compensation:			
	Jury commissioners	$ 51	$ 51	$ .....
	Land commissioners	428	428	.....
	Jurors	30,032	30,656	+624
	Total personnel compensation	30,511	31,135	+624
12	Personnel benefits	26	26	.....
21	Travel and transportation of persons (jurors)	15,202	15,552	+350
25	Other services (meals and lodging furnished sequestered jurors)	1,179	1,198	+19
26	Supplies and materials (refreshments for jurors)	282	289	+7
	Subtotal	47,200	48,200	+1,000
	Sequestered pursuant to P.L. 99-177	-1,866	.....	+1,866
	Total obligations	$45,334	$48,200	$+2,866

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*Includes proposed program supplemental of $3,800 thousand.

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Relation of Obligations to Outlays
(In thousands of dollars)

	1986			1987	Difference (+)
	Total	Sequestered	Estimate	Estimate	or (-)
Obligations incurred, net..........	$47,200	$-1,866	$45,334	$48,200	$+2,866
Obligated balance, start of year...	1,801	...	1,801	2,295	+494
Obligated balance, end of year.....	-2,360	65	-2,295	-2,410	-115
Outlays......................	$46,641	$-1,801	$44,840	$48,085	$+3,245

General Statement

This appropriation is for the compensation of jury commissioners and land commissioners and for the fees and allowances of grand and petit jurors, including meals and lodging furnished sequestered jurors and transportation of juries of view. Budgetary requirements depend largely upon the volume and the length of jury trials demanded by parties to both civil and criminal actions and the number of grand juries being convened by the courts at the request of United States Attorneys. For basic statutory authorities, reference is made to the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Justification of Changes

The sum of $48,200,000 is requested for fiscal year 1987, an increase of $2,866,000 in budget authority over fiscal year 1986. Detailed justifications for this increase are provided below.

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit and Control Act of 1985 ($1,866,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $1,866,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Increase in Mileage Allowance for Grand and Petit Jurors ($250,000)

The last time the General Services Administration (GSA) increased the mileage rate for use of privately-owned vehicles for official business was June 19, 1983. At that time the rate was increased from 20.0 cents to 20.5 cents per mile. Information received from GSA indicates that the increases in gasoline prices over the last 12 months will necessitate an increase in the reimbursement rate to 21 cents per mile, or a 2.5 percent increase. Therefore, based on the projected increase of one cent per mile, the sum of $250,000 is requested, $75,000 for grand jurors and $175,000 for petit jurors. These amounts are included in the estimates for fiscal year 1987 which follow.

Item 3. Projected Increase in Petit Jury Trials ($750,000)

The increase in budget authority of $750,000 represents an increase in projected obligations for petit juror activity (as shown below).

Jury Commissioners

Under 28 U.S.C. 1863, each district court "...shall devise and place into operation a written plan for random selection of grand and petit jurors...." The statute provides that the plan shall either establish a jury commission or authorize the clerk of court to manage the jury selection process. A jury commission consists of one citizen appointed by the district court to serve with the clerk of court. Each citizen jury commissioner receives compensation fixed by the district court plan at a rate not to exceed $85.16 per day for each day necessarily employed in the performance of his duties (payable out of the appropriation "Fees of Jurors and Commissioners"), plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties (payable out of the appropriation "Expenses of Operation and Maintenance of the Courts"). However, because the level of usage of jury commissioners in the district courts is relatively low and appears to be declining, the courts have been advised to phase out their use of these positions. Temporary personnel will be provided, when needed, to assist the courts during the refilling of the master jury wheels. Accordingly, no increase is projected in jury commissioner compensation costs for fiscal year 1987.

Land Commissioners

The purpose of a land commissioner is to determine the issue of just compensation arising from the deprivation of private property for public use. Under Rule 71 A(h) of the Federal Rules of Civil Procedure, a district court may in its discretion order "...that, because of the character, location, or quantity of the property to be condemned, or for other reasons in the interest of justice, the issue of compensation shall be determined by a commission of three persons appointed by it...." Determination of this issue involves the exercise of trial procedures and evidentiary rulings. Due process of law must be accorded the litigants from the appointment of a commissioner to the presentation of his report to the court.

Since the adoption of Rule 71 A in April 1951 until October 1977, the appointment and fixing of fees for land commissioners, though a judicial function, had been administered by the Department of Justice. In fiscal year 1978, request was made for and the Congress approved the transfer of this function to the Judiciary and language was added to the appropriation "Fees of Jurors and Commissioners" authorizing payment of compensation of land commissioners. This compensation may not exceed the daily equivalent of the highest rate payable under 5 U.S.C. 5332 (currently $263.36). Compensation is payable out of the appropriation "Fees of Jurors and Commissioners" and necessary expenses out of the appropriation "Expenses of Operation and Maintenance of the Courts." No increase is projected in land commissioner compensation costs for fiscal year 1987.

Grand Jurors

During the year ending September 30, 1985, the number of grand juries impaneled (314) will exceed the number discharged (291) by 23, resulting in 484 grand juries on September 30, 1985, compared with 461 juries as of September 30, 1984. Overall, 763 grand juries were in existence at sometime during the twelve month period compared with 759 in 1984. The number of sessions convened in 1985 was 11,392, a decrease of 493 (4.2%) over 1984. The number of jurors in session in 1985 was 225,469, a decrease of 8,166 (3.5%) over 1984. The number of grand juries that are used in each of the district courts varies depending on factors such as the amount and type of criminal activity and the number of places of holding court. There also is a substantial variance in the number and frequency of grand jury sessions. The trend in grand jury activity for the last five years is shown in the following table.

National Grand Juror Statistics
For the Twelve Month Periods Ended September 30, 1981 - 1985

Grand Jurors and Juries	1981	1982	1983	1984	1985	1985 over 1984	
						+/- Change	Percent Change
Total Number of:							
Sessions convened..........	10,546	10,569	11,305	11,885	11,392	-493	-4.2
Jurors in session..........	218,384	211,513	225,315	233,635	225,469	-8,166	-3.5
Hours in session...........	57,900	55,815	59,450	62,127	60,629	-1,498	-2.4
Average Number of:							
Jurors per session.........	20.7	20.0	19.9	19.7	19.8	...	...
Hours per session..........	5.49	5.28	5.26	5.23	5.33	...	...
Total Number of Grand Juries:							
In existence...............	748	728	737	759	763	+4	+0.5
Impaneled..................	333	307	325	331	314	-17	-5.1
Discharged.................	321	313	303	298	291	-7	-2.4

In fiscal year 1986, criminal filings are projected to be 5.7 percent higher than in 1985 and then level off in 1987. As a result of the projected increase in criminal filings in 1986 with no additional increase projected in 1987, it is anticipated that grand jury usage will not increase over 1986.

Accordingly, additional funds requested for 1987 are based solely on an anticipated increase of 2.5 percent in reimbursable mileage allowance for grand jurors ($75,000).

The following table shows the cost of grand juries from 1981 through 1984, and estimates for 1985, 1986, and 1987.

Fiscal Year	Fees & Expenses of Grand Jurors	+/- Change	
		Amount	Percentage
1981	$10,926,347	$	...
1982	10,659,561	-266,786	-2.4
1983	11,611,784	+952,223	+8.9
1984	12,186,786	+575,002	+5.0
1985	11,862,704	-324,082	-2.7
Estimates			
1986	12,985,000	+1,122,296	+9.5
1987	13,060,000	+75,000	+0.6

Petit Jurors

During the year ending September 30, 1985 total available jurors numbered 695,761, an increase of 4.8 percent over 1984. In addition, this figure is projected to increase by 4.2 percent in 1986 and 3.5 percent in 1987. Jury trial days increased 6.1 percent from 1984 to 1985, from 39,143 to 41,523. It is projected that jury trial days will increase an additional 6.0 percent in 1986, and approximately 4.6 percent in 1987. Petit jury activity forecasts are formulated based on the number of criminal cases filed one year before (for 1986 and 1987, an estimate is used) and the number of district judges on the bench.

The projected increase in this program area for 1987 is $925,000, of which, $750,000 is for an estimated 3.5 percent increase in petit juror activity and $175,000 for an anticipated 2.5 percent increase in the mileage allowance rate.

The trend in petit jury activity for the last five years and estimates for 1985 through 1987 are shown in the following table.

National Petit Juror Usage
For the Twelve Month Periods Ended September 30, 1981 - 1987

	Jury Trial Days						Costs	
Year	Criminal	Civil	Total	Percent Change	Total Available Jurors	Percent Change	Total	Percent Change
1981........	15,509	19,771	35,280	...	640,063	...	$28,983,223	...
1982........	15,733	19,744	35,477	+0.6	627,725	-1.9	28,227,050	-2.6
1983........	16,838	21,553	38,391	+8.2	650,357	+3.6	29,315,119	+3.9
1984........	16,478	22,665	39,143	+2.0	663,651	+2.1	30,473,353	+4.0
1985........	17,874	23,649	41,523	+6.1	695,761	+4.8	32,018,826	+5.1
1986*.......	18,940	25,060	44,000	+6.0	725,000	+4.2	33,710,000**	+5.3
1987*.......	19,801	26,199	46,000	+4.6	750,000	+3.5	34,635,000***	+2.7

*Estimated.
**Includes $400,000 to restore fiscal year 1986 availability.
***Includes $175,000 for increase in mileage allowance.

Beginning in July 1982, the Administrative Office began collecting "first day" statistics on juror utilization as recommended by the General Accounting Office in its report on juror utilization. Instead of computing the percentages on the basis of all the jurors called into the court, the new statistics concentrate on the jurors called in on the first day for voir dire and exclude the jurors that return for on-going trials. These "first day" statistics more accurately reflect the courts' juror management practices than the old Juror Utilization Index because they are not distorted by length of trial or variations in jury size. As a result of the change in the method for capturing petit juror statistics, it is not possible to compare 1983 and 1984 statistics for jurors selected or serving, challenged, or not selected with any statistics published in previous years by the Administrative Office. The following table represents a comparison of "first day" petit juror statistics for fiscal years 1983, 1984, and 1985.

"First Day" Petit Juror Usage

Fiscal Year	Jurors Present For Voir Dire	Not Selected Serving Or Challenged	Percent Not Selected Serving Or Challenged
1983	320,059	118,151	36.9
1984	328,815	119,998	36.5
1985	337,854	115,771	34.3

As shown above, the average percentage of jurors not used on the first day for the fiscal year ending September 30, decreased from 36.5 in 1984 to 34.3 in 1985. Continued improvement is expected as a result of the Judicial Conference of the United States directing all courts to adopt procedures and techniques that would limit the percentage of jurors not selected, serving or challenged on voir dire/orientation day to 30 percent.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

Summary of Requirements

Appropriation 1986 (enacted to date)	$135,000,000
Sequestered pursuant to P.L. 99-177	-5,805,000
Budget Authority, 1986	129,195,000
1987 budget estimate	160,500,000
Proposed Increase	31,305,000

Appropriation Language

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

For necessary operation and maintenance expenses, not otherwise provided for, incurred by the Judiciary, including the purchase of firearms and ammunition, [$135,000,000] $160,500,000, of which [$6,000,000] $8,000,000 shall be available for contractual services and expenses relating to the supervision of drug dependent offenders.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page No.	Summary of changes:	1987 Request Perm. Pos.	1987 Request Amount
	Appropriation 1986 (enacted to date)	...	$135,000
	Sequestered pursuant to P.L. 99-177	...	-5,805
	Budget Authority, 1986	...	129,195
	Adjustments to base and built-in changes:		
9.5	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+5,805
9.5	2. Restoration of the reduction to the fiscal year 1986 appropriation base	...	+2,825
9.5	3. Annualization of expenses of new personnel authorized in fiscal year 1986	...	+194
9.6	4. Annualization of expenses associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984	...	+1,287
9.8	5. Increase in subsistence and mileage allowances for official travel	...	+171
9.8	6. Other increases in contract rates and charges for services, supplies, and equipment	...	+3,948
9.10	7. Expenses for the operation of the Special Rail Reorganization Court	...	+35
9.11	8. Nonrecurring expenses authorized in fiscal year 1986	...	-4,488
	Subtotal, adjustments to base and built-in changes	...	+9,777
	Program changes:		
9.11	9. Expenses relating to requests for new personnel	...	+6,248
9.13	10. Increases in the number of drug dependent offenders, charges for services, and frequency of services	...	+2,000
9.14	11. Increase in number of defendants eligible for contractual social services as a result of passage of the Pretrial Services Act of 1982	...	+550
9.15	12. Expansion of automated systems in courts of appeals and district courts	...	+8,325
9.19	13. Increased use of interpreters resulting from passage of the Comprehensive Crime Control Act of 1984	...	+700
9.19	14. Orientation expenses for office automation	...	+300
9.20	15. Furniture and furnishings required incident to prospective projects	...	+3,405
	Subtotal, program changes	...	+21,528
	Total increases requested	...	+31,305
	Total appropriation requested, 1987	...	$160,500

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Operating expenses	...	$139,383	...	$132,972	...	$152,500	...	$+19,528
Drug aftercare services	...	6,000	...	6,000	...	8,000	...	+ 2,000
Subtotal	...	$145,383	...	$138,972	...	$160,500	...	$+21,528
Sequestered pursuant to P. L. 99-177	...	-5,805	...	.....	...	.....	...	.....
Total obligations	...	$139,578	...	$138,972	...	$160,500	...	$+21,528
Unobligated balance, start of year	...	-10,383*	...	.....	...	.....	...	.....
Budget authority	...	$129,195	...	$138,972	...	$160,500	...	$+21,528

Object Classification
(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
12	Personnel benefits..................................	$ 172	$ 179	$ +7
21	Travel and transportation of persons................	13,042	13,806	+764
22	Transportation of things............................	1,067	1,110	+43
23	Communications, utilities, and miscellaneous charges..	41,110	43,260	+2,150
24	Printing and reproduction...........................	6,098	6,393	+295
25	Other services......................................	22,463	29,700	+7,237
26	Supplies and materials..............................	7,569	8,633	+1,064
31	Equipment:			
	General office..................................	34,476	39,813	+5,337
	Lawbooks, accessions............................	6,392	3,655	-2,737
	Lawbooks, continuations.........................	12,994	13,951	+957
	Subtotal..	$145,383	$160,500	$+15,117
	Sequestered pursuant to P. L. 99-177................	-5,805	.....	+5,805
	Total obligations...............................	$139,578	$160,500	$+20,922

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*Includes $1,125 thousand no-year funds appropriated in fiscal year 1984 for telephone systems procurement and $9,258 thousand balance of no-year funds included in fiscal year 1985 program supplemental for purchase of equipment and furniture for new judgeships.

Relation of Obligations to Outlays
(In thousands of dollars)

	1986			1987	Difference (+)
	Total	Sequestered	Estimate	Estimate	or (-)
Obligations incurred, net..................	$145,383	$-5,805	$139,578	$160,500	$+20,922
Obligated balance, start of year...........	25,978	...	25,978	38,453	+12,475
Obligated balance, end of year.............	-39,574	1,121	-38,453	-46,205	-7,752
Outlays..................................	$131,787	$-4,684	$127,103	$152,748	$+25,645

Distribution of Obligations by Organization
(In thousands of dollars)

	1986			1987	Difference (+)
	Total	Sequestered	Estimate	Estimate	or (-)
Courts of Appeals..........................	$ 20,292	$ -810	$ 19,482	$ 22,402	$ +2,110
District Courts............................	124,695	-4,979	119,716	137,662	+12,967
Other Organizations*.......................	396	-16	380	436	+40
Total obligations.................	$145,383	$-5,805	$139,578	$160,500	$+15,117

*Includes the United States Claims Court, Judicial Panel on Multidistrict Litigation, Temporary Emergency Court of Appeals, Foreign Intelligence Surveillance Court, and in 1987 only, the Special Rail Reorganization Court.

General Statement

This appropriation provides for the necessary operation and maintenance expenses of the judges, magistrates, and supporting personnel of the United States courts of appeals, the United States district courts, and the United States Claims Court, including the probation offices, but excluding the federal public defender organizations. Salaries and expenses of federal public defenders are included under a separate appropriation. For basic statutory authorities, reference is made to the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Justification of Changes

The sum of $160,500,000 is requested for fiscal year 1987, which represents an increase of $31,305,000 over the budget authority for fiscal year 1986. Excluding mandatory changes and adjustments to the base, the net increase in budgetary requirements (program changes) is $21,528,000, or 16.7 percent, which includes the sum of $6,248,000 for expenses relating to requests for new personnel; $2,000,000 for increases in the number of clients and in charges for and frequency of services relating to the supervision of drug dependent offenders; $550,000 for increases in contract requirements incident to the Pretrial Services Act; $8,325,000 for the expansion of automated systems in the courts of appeals and district courts; $700,000 for increased use of interpreters resulting from passage of the Comprehensive Crime Control Act of 1984; $300,000 for orientation expenses for office automation; and $3,405,000 for furniture and furnishings incident to the occupancy of expanded or remodeled facilities. Details with regard to the uncontrollable increases (or decreases) and the proposed program changes for fiscal year 1987 follow.

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($5,805,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $5,805,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Restoration of the Reduction to the Fiscal Year 1986 Appropriation Base ($2,825,000)

In the appropriations bill for fiscal year 1986, the Congress reduced the 1986 appropriation base in order to achieve spending levels required by the budget reconciliation process. The sum of $2,825,000 (for equipment) has been included in this request to restore the appropriation base to the 1985 level.

Item 3. Annualization of Expenses of New Personnel Authorized in Fiscal Year 1986 ($194,000)

In fiscal year 1986, the Congress authorized 714 additional positions for the courts of appeals and district courts. The amount appropriated for recurring expenses of 608 of these positions was less than the recurring annual cost, having been reduced to account for the estimated savings (lapses) resulting from the delay in filling new positions. The difference between the part-year appropriation and the full-year costs of these positions is as follows:

Object Class	Appropriated FY 1986	Recurring Annual Cost	Difference
Travel.............	$ 54,000	$ 90,000	$ 36,000
Communications, utilities, and misc. charges....	74,000	140,000	66,000
Other services.....	30,000	56,000	26,000
Supplies and materials........	74,000	140,000	66,000
Total.........	$232,000	$426,000	$194,000

The sum of $194,000 is therefore requested for fiscal year 1987 to fully provide for the annual recurring costs of the new positions authorized in fiscal year 1986.

Item 4. Annualization of Expenses Associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984 ($1,287,000)

The Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law 98-353, created 85 new judgeships, 24 in the courts of appeals and 61 in the district courts. It also made changes in the retirement provisions for Federal judges and created two new places of holding court at Houma, Louisiana and Jackson, Wyoming. The total projected cost of implementing this legislation for the appropriation "Expenses of Operation and Maintenance of the Courts" is $16,336,000.

The first and second year costs of this legislation, offset by nonrecurring expenses, were included in a fiscal year 1985 supplemental appropriation and the 1986 appropriation request. The final impact is projected to occur in fiscal year 1987 ($1,287,000), during which all the judgeships will be filled for the entire year. Following is a summary of these costs:

		Fiscal Year Budget Impact		
	Total Cost	1985 Supple-mental	1986 Increase	1987 Increase
		(Dollars in thousands)		
A. New Judgeships (Sec. 201 and 202):				
Recurring Expenses -				
Travel				
Circuit, 24 @ $12,000	$ 288	$ 78	$ 190	$ 20
District, 61 @ $6,000	366	99	241	26
Printing of Opinions, 24 circuits @ $13,000	312	85	206	21
Miscellaneous Expenses (supplies, communications, etc.)				
Circuit, 24 @ $20,600	494	134	326	34
District, 61 @ $13,100	799	217	527	55
4 Secretaries, 2 Court Reporter Coordinators, and 6 Court Secretaries @ $1,200	14	5	8	1
Consultant Services	250	250	...	...
Recurring Expenses of Equipment, Lawbooks, and Furniture	1,130	...	...	1,130
Subtotal	3,653	868	1,498	1,287
Nonrecurring Expenses (No-year account, "To remain available until expended")				
General Office Equipment				
Circuit, 24 @ $11,100	266	266	-266	...
District, 61 @ $7,700	470	470	-470	...
Other, 12 positions @ $1,300	16	16	-16	...
Word Processing Equipment				
Circuit, 24 @ $30,000	720	720	-720	...
District, 61 @ $8,500	519	519	-519	...
Secretaries for Chief Judges, 4 @ $8,500	34	34	-34	...
Library, 85 @ $40,000	3,400	3,400	-3,400	. .
Furniture and Furnishings				
Circuit, 24 @ $52,000	1,248	1,248	-1,248	...
District, 61 @ $76,000	4,596	4,596	-4,596	...
Other, 12 @ $2,628	31	31	-31	...
Subtotal	11,300	11,300	-11,300	...
Total	14,953	12,168	-9,802	1,287
B. New Places of Holding Court (Sec. 203):				
Houma, Louisiana and Jackson, Wyoming				
Recurring Expenses -				
Travel @ $20,000	40	40	...	...
Miscellaneous Expenses @ $1,000	2	2	...	...
Nonrecurring Expenses -				
Equipment @ $5,000	10	10	-9	...
Lawbooks @ $5,000	10	10	-9	...
Furniture and Furnishings @ 4,000 sq. ft.	106	106	-95	...
Total	168	168	-113	...
C. Change in Retirement Provision (Sec. 204):				
Recurring Expenses, 19 judgeships @ $4,200	80	55	25	...
Nonrecurring Expenses -				
Equipment, 19 judgeships @ $4,550	86	86	-77	...
Furniture & Furnishings @ 4,200 sq. ft. ea.	1,049	1,049	-944	...
Total	1,215	1,190	-996	...
Grand Total, Expenses of Operation and Maintenance of the Courts	$16,336	$13,526	$-10,911	$1,287

Item 5. Increase in Subsistence and Mileage Allowances for Official Travel ($171,000)

The General Services Administration (GSA) has established a regular per diem rate of $50 per day and up to $75 per day for actual expenses in "high-rate geographical areas," the maximum allowable under existing statutory authority. Claims for subsistence while on official travel in such areas may be made on an actual expense basis in excess of the regular per diem allowance authorized for federal employees. The amount currently available for subsistence was computed based on the existing rates. On November 3, 1985, GSA substantially increased the number of high-rate geographical areas.

The last time the GSA increased the mileage rate for use of privately-owned vehicles for official business was June 19, 1983. At that time the rate was increased from 20.0 cents to 20.5 cents per mile. Information received from GSA indicates that the increases in gasoline prices over the last 18 months will necessitate an increase in the reimbursement rate to 21.0 cents per mile, or a 2.5 percent increase.

Based on the projected increase in subsistence expenses due to the larger number of high-rate geographical areas, and the projected increase of one-half cent in the mileage allowance, the sum of $171,000 is requested.

Item 6. Other Increases in Contract Rates and Charges for Services, Supplies, and Equipment ($3,948,000)

a. Telecommunications Services ($813,000)

The sum of $20,224,000 is presently available to cover the cost of the Federal Telecommunications System (FTS) Intercity Telephone Service and General Services Administration (GSA) and other commercial telephone services. Based on experience over the last several years and information provided by GSA, it is estimated that FTS costs and other telephone services will increase 4 percent in fiscal year 1987. The sum of $813,000 is requested to cover these increases (exclusive of requirements relating to new personnel).

b. Increased Cost of Lawbook Accessions and Continuations ($660,000)

A total of $660,000 is requested to meet increased costs of accessions and continuation material as follows:

b(1) Accessions ($124,000). It is requested that the allotment for accessions of lawbooks and other books of reference for court libraries be increased $124,000, from $3,096,000 to $3,220,000, an increase of 4 percent. This sum is needed primarily to cover increases in the cost of libraries for: (1) judges appointed to succeed senior judges, who continue to provide substantial judicial services and retain their libraries, and (2) magistrates. The growing rate of retirement by judges has created the need for additional libraries. The increase in the cost of lawbooks, the explosive growth in the body of the law, and the new and reemphasized fields of litigation, all have contributed to the augmented requirements for lawbook accessions.

b(2) Continuations ($536,000). A standard 4 percent inflation factor has been applied to the amount available in the base appropriation for lawbook continuation materials. As such, the sum of $13,946,000 will be available in fiscal year 1987 for the procurement of pocket parts and other continuation material necessary to keep court libraries current. This represents an increase of $536,000 over the amount budgeted in fiscal year 1986.

c. Increased Cost of Relocation and Transportation of Things ($50,000).

Expenditures for the relocation of court personnel (changes of official station) in the interest of the Government have increased over the years. This is due in large measure to the new judgeships and other new supporting personnel. Increased charges for shipping and storing household goods and effects, real estate commissions and closing costs, and higher allowances for temporary living facilities and house hunting trips are contributing factors. Charges on Government Bills of Lading for the shipment of records and other material have also increased. It is estimated that the sum of $1,289,000 will be required for this purpose in fiscal year 1987 which is $50,000 (4 percent) in excess of the amount presently available in the base appropriation.

d. Rental of Copy Equipment ($204,000).

It is estimated that in fiscal year 1987 the sum of $5,309,000 will be required for the rental of copy machines for clerks' offices, judges' chambers, magistrates' offices, and other component offices of United States courts of appeals, district courts, and the United States Claims Court, exclusive of federal public defenders. This represents an increase of $204,000 (4 percent) over the amount presently available in the base appropriation. The 4 percent increase is due, primarily, to inflation and also an increased demand for copies of official documents and records by litigants and the public consistent with the projected increase in civil filings. Fees collected from the sale of copies are deposited into the General Fund of the Treasury.

e. Printing and Reproduction ($245,000).

There has been a continuing increase in the cost of envelopes, forms, letterheads, dockets, and other materials being printed by the Government Printing Office and Federal Prison Industries. In addition, the average cost for commercial printing of opinions continues to increase. Furthermore, it is estimated that printing and binding costs, due to projected increases in labor, paper, and commercial procurement prices, will increase by approximately 4 percent in fiscal year 1987. At the present time, the sum of $6,122,000 is available for printing and reproduction. The requirements for printing and reproduction during fiscal year 1987 are estimated to be $6,367,000, which represents an increase of $245,000, or 4 percent.

f. Supplies and Materials ($310,000).

Based on the growth in expenditures for this purpose, it is anticipated that costs will increase about 4 percent in fiscal year 1987 and that the sum of $7,961,000 will be required for supplies and materials, exclusive of requirements relating to new personnel. The sum of $7,651,000 is presently available; therefore, the allotment should be augmented to the extent of $310,000.

g. Increased Cost of Replacement Furniture and Equipment ($1,081,000).

The cost of typewriters, adding machines, and other general office equipment, including furniture, is continuing to increase under contracts entered into by the General Services Administration. In order to offset these rising costs, the allotment for office equipment should be augmented to the extent of $1,081,000, or approximately 4 percent, excluding new personnel requirements. The sum of $26,868,000 is presently available for this purpose.

h. Increased Cost of Repairs and Maintenance of Equipment ($243,000).

It is estimated that an additional $243,000 will be required in fiscal year 1987 to allow for inflationary increases in the cost of labor and parts for the repair and maintenance of office equipment currently in operation in the courts. This represents an increase of approximately 4 percent over the amount presently available in the base appropriation.

i. Increased Cost of Contractual Services ($342,000).

The sum of $342,000 will be required to offset increases in contractual services and rentals. The following projection by type of expenditure is based on recent, as well as anticipated, increases in expenditures at the rate of approximately 4 percent.

Part-time magistrate expenses..........	$ 42,000
Other computer services................	31,000
Reportorial services...................	90,000
Health units...........................	31,000
Other rentals..........................	56,000
Other services.........................	92,000
TOTAL............................	$342,000

Item 7. Expenses for the Operation of the Special Rail Reorganization Court ($35,000)

The Special Court was established by the Regional Rail Reorganization Act of 1973 (Rail Act) primarily to order the conveyance of rail properties designated by the Final System Plan and to place a value on each of such properties. Nearly 19,000 miles of railroad, terminal properties and rolling stock were conveyed. The Railroad Revitalization and Regulatory Reform Act of 1976 (RRRR Act) amended the Rail Act and expanded the Special Court's duties by creating original and exclusive jurisdiction in the Special Court for a variety of actions, section 209(e). The Special Court's Rail Act original and exclusive jurisdiction was further expanded by section 1162(a) of the Northeast Rail Service Act of 1981, Subtitle E of Title XI, Omnibus Budget Reconciliation Act of 1981, (P.L. 97-35) (NRSA), to include proceedings arising under NRSA. In 1982 the Judicial Panel on Multidistrict Litigation assigned three additional judges to the Special Court to handle cases arising under NRSA. The court now sits in two panels, a General Panel dealing with questions arising under the Rail Act and Special Panel dealing with questions arising under NRSA. The jurisdiction based on NRSA will continue to be an ongoing source of activity for the Special Court, although few additional cases based on section 209(e) of the Rail Act are expected. As of September 30, 1985, 29 civil actions and 9 miscellaneous actions were pending.

The annual cost of operating the Special Rail Reorganization Court is currently funded from a no-year appropriation. In fiscal year 1987, it is estimated that $209,000 will be available for this purpose from the unobligated balance carried forward from fiscal year 1986, of which $41,000 will provide for the miscellaneous expenses of the Special Court. Based on projected costs, the unobligated balance will be insufficient to maintain a current service level of operations by the Special Court. Instead of seeking new budget authority for the no-year appropriation, the Judiciary is requesting approval to fund the expenses of the Special Court from the general appropriations for the Judiciary. This consolidation would offer several advantages: first, it would reduce the number of appropriation accounts for the Judiciary; second, it would simplify accounting procedures.

The sum of $35,000 is requested for the appropriation "Expenses of Operation and Maintenance of the Courts," as follows:

Travel and transporation of persons....	$ 2,000
Communications, utilities, and miscellaneous charges................	2,000
Printing and reproduction..............	2,000
Other services.........................	7,000
Supplies and materials.................	2,000
Equipment..............................	20,000
TOTAL.............................	$35,000

In addition to the cost of the miscellaneous expenses of the Special Court, funds have been included for the cost of salaries and benefits of the 8 authorized support positions under the heading "Salaries of Supporting Personnel."

Item 8. Nonrecurring Expenses Authorized in Fiscal Year 1986 ($-4,488,000)

In fiscal year 1986, the Congress authorized 714 new supporting personnel positions. The nonrecurring costs of equipment, lawbooks, furniture, and security investigations, $4,488,000, have been deducted in establishing the budgetary requirements for fiscal year 1987.

Item 9. Expenses Relating to Requests for New Personnel ($6,248,000)

Under "Salaries of Judges," provision has been made for an anticipated increase of 6 in the number of senior judges, and under "Salaries of Supporting Personnel," provision has been made for 1,403 new permanent positions for the United States courts of appeals and district courts. Recurring and nonrecurring expenses for these new positions will be required in fiscal year 1987. The sum of $6,248,000 will be required in this appropriation for the procurement of general office equipment, furniture, communications, supplies, and other expenses incident to establishing the new positions. The nonrecurring cost of equipment, furniture, lawbooks, and security investigations will be deducted in establishing the budgetary requirements for fiscal year 1988. Following is the object classification distribution of these costs:

(dollar amounts in thousands)

	Related Appropriation, Item Number and Title	Perm. Pos.	Travel	Comm., Util., and Misc. Charges	Printing	Other Services	Supplies and Materials	Equip.	Furniture	Security Investigations	Total	Non-Recurring Amount	F.Y. 1988 Annualization
	"Salaries of Judges"												
5	Anticipated increase in the number of senior judges												
	Circuit	(1)	$...	$...	$...	$...	$...	$ 80	$ 37	$ ...	$ 117	$ 104	$...
	District	(5)	...	...	...	...	...	282	364	...	646	577	...
	"Salaries of Supporting Personnel"												
10	Five new full-time magistrates, conversion of two part-time magistrates to full-time status (including supporting personnel), and other adjustments	26	14	60	4	16	14	308	352	28	796	610	...
11	Supporting personnel for circuit executives	10	...	5	...	2	5	13	...	...	25	12	...
12	Deputy clerks for courts of appeals												
	Staffing formula allowance	66	...	19	...	8	19	86	...	...	132	77	33
	Bankruptcy appellate panel positions	5	...	2	...	1	2	6	...	...	11	6	...
13	Deputy clerks for district courts	205	...	62	...	25	62	266	...	...	415	240	96
14	Deputy clerks for bankruptcy offices												
	Full funding	(200)	...	100	...	40	100	...	...	...	240	...	...
	Partial funding (60 percent)	466	...	140	...	56	140	606	...	...	942	545	223
15	Probation and pretrial services												
	Officers	329	395	99	...	39	99	428	...	1,316	2,376	1,569	421
	Clerk-stenographers	162	...	49	...	19	49	211	...	...	328	190	77
16	Supporting personnel for senior judges	30	...	15	...	6	15	...	...	...	36	...	...
17	Preargument conference program	12	...	6	...	2	6	16	...	...	30	14	...
18	Legal assistants for magistrates	11	...	6	...	2	6	14	...	...	28	13	...
19	National court library system	20	...	10	...	4	10	26	...	...	50	23	...
21	Court interpreter program	6	...	3	...	1	3	8	...	...	15	7	...
22	Electronic sound recording program												
	District courts	25	...	12	...	5	12	32	...	...	61	29	...
	Bankruptcy offices	30	...	...	...	...	...	...	...	...	...	...	...
	TOTAL	1,403	$409	$588	$ 4	$226	$542	$2,382	$753	$1,344	$6,248	$4,016	$850

Item 10. Increases in the Number of Drug Dependent Offenders, Charges for Services, and Frequency of Services ($2,000,000)

In June 1985, chief probation officers reported 6,516 drug dependent persons in treatment with 3,376 persons receiving some form of contract treatment and 3,140 receiving treatment from non-contract programs or directly from probation staff. This is an increase of approximately 17 percent from June 1984. Improved identification skills of probation officers and increased prosecution of drug abusing offenders have resulted in the increased aftercare population and nearly a 27 percent increase in urine specimens tested in the last 12 months.

The following are conservative estimates of drug aftercare cases for fiscal years 1986 and 1987. They are based on increases in the population of all persons under supervision of the probation system and recent increases in the aftercare population.

PERSONS IN DRUG AFTERCARE TREATMENT

Total	June 1982	June 1983	June 1984	June 1985	1986 Est.	1987 Est.
Persons in Treatment	4,554	4,735	5,547	6,516	7,100	7,400
Contract	2,113	2,365	2,869	3,376	4,100	4,400
Non-Contract	2,441	2,370	2,678	3,140	3,000	3,000

For the provision of contract services, the Probation Division of the Administrative Office of the United States Courts has established minimum standards of at least one 30 minute session of counseling per week and a range of two to six urine tests per month, depending on the status of treatment.

Although urine collection, testing and counseling are the primary services provided, there are 27 additional services available to clients in contract programs. The remaining services include, but are not limited to, group and family counseling; vocational testing, training (classroom and on-the-job), and placement; physical examinations; psychological or psychiatric workups and evaluations; individual, group or family psychotherapy; ambulatory or in-patient detoxification, including physical examinations and medication; and methadone treatment. Also included are placements in therapeutic communities, temporary housing, emergency transportation and/or financial assistance for clients and travel by contract staff to supervise persons enrolled in the contract program.

In addition to increases in the number of clients receiving drug aftercare services, the unit costs of these services have also increased. Contracts for urinalysis services were awarded in fiscal year 1984 with options for fiscal years 1985 and 1986 and therefore exact prices for these years were obtained. The 1985 average cost of $3.52 per basic screen increased to an average per specimen cost of $3.85 for fiscal year 1986, an increase of 9 percent. Using the same percentage increase for 1987, the average cost will be $4.20 per specimen.

In addition to the basic screen conducted on each specimen there are 24 additional drugs for which testing may be requested at a per-drug cost. Similar increases in costs are expected for these specially ordered tests.

To insure that the contract laboratories provide reliable test results, an extensive monitoring system has been designed. This monitoring system requires technical assistance and expertise unavailable within the Administrative Office of the United States Courts. Since fiscal year 1984 the Administrative Office has contracted with a noted authority on urinalysis procedures and a research facility to provide approximately 600 test specimens used to gauge laboratory proficiency. The consultant's cost rose 8 percent from 1984 to 1985 ($30.67 per hour to $33.02 per hour). The per specimen cost rose 19 percent, from $27.45 per specimen to $32.75 per specimen. An equivalent increase is anticipated for 1986 and 1987.

A fee is charged by most contractors to collect urine specimens and report the test results. The average unit price for this primary service was $3.23 in fiscal year 1985. While this unit cost has not increased significantly, the increase in urine specimens collected will result in a greater overall expenditure for this service.

The primary treatment service provided is individual counseling. At least one 30 minute counseling session is provided weekly to program participants. A 7 percent increase is projected from fiscal year 1985 to 1986 bringing the average unit price for this service to $23.28 per session in 1986. A comparable increase is anticipated for 1987.

While similar increases are expected in other services as well, the overall cost of the program is controlled by a strict adherence to the competitive process as set forth in the Federal Acquisition Regulation. In fiscal year 1985 a sudden and significant increase in the number of clients placed in drug aftercare treatment, plus rising costs and a 27 percent increase in the number of urine specimens tested led to a rate of expenditure that would have exhausted the funds before the end of the fiscal year. To avoid violation of the Antideficiency Act the level of services and urinalysis was reduced to contain spending to the appropriated level of $5.5 million. As a result, 65 percent of the treatment contracts were not in operation during the last 30 to 60 days of the fiscal year. If spending had not been curtailed, total expenditures would have been more than $6.1 million for the year.

The sum of $6,000,000 is available in fiscal year 1986. A supplemental request of $500,000 or a reduction in services will be necessary in fiscal year 1986, as the increase in clients and the need for intensive services are expected to continue. Therefore, $8 million, an increase of 33 percent over the amount currently available for 1986, is requested for fiscal year 1987. The amount requested will ultimately depend on the Congressional authorization for this program.

Item 11. Increase in Number of Defendants Eligible for Contractual Social Services as a Result of Passage of the Pretrial Services Act of 1982 ($550,000)

The Pretrial Services Act, Public Law 97-267, requires the Director of the Administrative Office to provide for the establishment, either directly or by contract, of pretrial services in each judicial district. A provision under this Act directs each district to "operate or contract for the operation of appropriate facilities for the custody or care of persons released under this program including residential halfway houses, addict and alcoholic treatment centers, and counseling services."

Following passage of the Pretrial Services Act, $129,500 was obligated for defendant services in fiscal year 1984 as the law was implemented throughout the federal courts. The amount of funds obligated for these contracts rose to

$520,500 in fiscal year 1985. This sharp increase can be attributed to two factors: the continued expanded implementation of the Pretrial Services Act and the passage of the Bail Reform Act of 1984. The sum of $950,000 is available in fiscal year 1986. With continued expansion, it is estimated that the sum of $1,500,000 will be necessary for 1987 for these essential contractual support services, representing an increase of $550,000 over the amount available in 1986.

It should be noted that even though the Pretrial Services Act allows the district courts to provide for the pretrial services either directly or by contracting with a private vendor, none of the districts to date has opted to fulfill the requirements of the Act in total on a contractual basis.

Item 12. Expansion of Automated Systems in Courts of Appeals and District Courts ($8,325,000)

The Judiciary has embarked upon an ambitious plan to modernize the way in which it does its business by obtaining comprehensive, full service automated support in such areas as: electronic docketing, noticing, indexing, administrative support, and case, jury, and financial management. The details of the program are contained in the Five-Year Plan for Automation in the United States Courts. The Plan proposes that the Judiciary take advantage of the rapid advances in technology that have made it possible to place small, powerful, reasonably priced computers in the courts under the direct control of those who need them. The Plan calls for phasing out the centralized Courtran systems, which have provided valuable, but limited, service to the courts since 1976.

The Courtran systems, which are accessed by several hundred terminals located in courts throughout the country, are operated on six large mainframe computers located in Washington, D.C. These computers are now obsolete, overloaded, and very expensive to maintain.

The Five-Year Plan for Automation calls for replacement of these Courtran computers with powerful, yet inexpensive, small stand-alone systems which will provide for a substantial increase in the service that will be available to the courts. This task consists of placing sophisticated computers in the courts, training the court personnel to operate these machines, and integrating the various automated systems into the operation of the court. The Administrative Office has the responsibility for procuring and installing the computer hardware, developing/converting and implementing various computer software applications, providing critical operational support when the courts have problems, as well as maintaining and enhancing the computer systems.

In order to reduce the amount of work necessary to develop software systems and place them in the courts, the Plan calls for the procurement of computers that run the same operating system software and development of standard core application systems to support the major activities of the courts. Nonetheless, each court has its own problems and ways of doing business. To assist the courts in adapting standard systems to their own needs and to enable them to develop capabilities, such as special reports, designed for their particular needs, the Plan requires that we develop automated tools and provide them with training and on-going support.

During 1985, the Administrative Office continued the efforts begun in previous years to implement the objectives of the Five-Year Plan for Automation by obtaining computer systems that are court-located; by developing application systems for operation in the courts; and by accepting computer systems developed by the Federal Judicial Center for subsequent distribution to the courts. In 1986 and 1987, the Administrative Office will continue its activities related to the Five-Year Plan for Automation. During these fiscal years, the complexity of the computer applications and the size of the court-located computers will grow as the more sophisticated applications are received from the Federal Judicial Center.

The following chart shows projected automation costs based on the Five-Year Plan by project and year:

JUDICIARY AUTOMATION COSTS
(in thousands of dollars)

Project/Year	1985	1986	1987	1988	1989
Activity: Data Processing					
Circuit and District Courts					
Courtran	$ 1,363	$ 1,467	$1,467	$ 800	$ 800
District Court Automation Project (DCAP)	2,163	2,179	5,590	5,590	5,590
Appellate Information Management System (New AIMS)	104	665	1,402	1,300	1,000
LA/DC Financial System	170	173	173	...	...
Computer-Assisted Legal Research (CALR)	1,000	1,200	1,680	2,210	2,610
Access to Law Enforcement	236	250	250	250	250
Automated Jury Selection	1,200	600	600	600	600
Probation Information Management System (PIMS)	...	...	...	2,000	2,000
Subtotal	6,236	6,534	11,162	12,750	12,850
Bankruptcy Offices					
Bankruptcy Court Automation Project (BANCAP)	...	300	3,997	7,600	7,600
Bankruptcy Automated Noticing System (BANS)	756	410	410	410	410
Subtotal	756	710	4,407	8,010	8,010
Total, Data Processing	6,992	7,244	15,569	20,760	20,860
Activity: Office Automation					
Circuit and District Courts					
Electronic Mail Program	539	973	973	973	973
Word Processing Systems	4,124	4,124	4,124	4,124	4,124
Subtotal	4,663	5,097	5,097	5,097	5,097
Bankruptcy Offices					
Word Processing Systems	587	616	616	616	616
Total, Office Automation	5,250	5,713	5,713	5,713	5,713
Grand Total, Judiciary Automation Costs	$12,242	$12,957	$21,282	$26,473	$26,573
Amount Available in Base Appropriation	12,242	12,957	12,957	21,282	26,473
Change in Budget Authority Required	$ ...	$ ...	$ 8,325	$ 5,191	$ 100

a. District Court Automation Project ($3,411,000)

The Administrative Office is engaged in a major automation effort to convert systems which operate on the centralized DEC-10 computers to run on decentralized computers in the courts. The Administrative Office is also developing computer systems to provide automated support to the courts in the case management, jury management and financial management areas. The computers that are to be placed in the courts must also be capable of operating the full electronic docketing and case management systems currently being developed by the Federal Judicial Center, which will be transferred to the Administrative Office for maintenance and expansion. The sum of $3,411,000 is requested to fund the acquisition of seven additional computers in large courts during fiscal year 1987.

b. Appellate Information Management System ($737,000)

The Appellate Information Management System (New AIMS) is currently under development by the Federal Judicial Center and will be transferred to the Administrative Office for maintenance and expansion in fiscal year 1986. The system will provide full electronic docketing and case management capabilities to the United States courts of appeals. The sum of $737,000 is requested to fund the acquisition of two additional computers, so that a total of four courts of appeals may be outfitted in fiscal year 1987.

c. Computer-Assisted Legal Research ($480,000)

Computer-assisted legal research (CALR) services are currently provided to the Judiciary on shared terminals in 125 locations with four or more judicial officers. With the approval of the Judicial Conference, the goal of this program is to provide CALR services to court officials and supporting personnel not only in court libraries and locations with shared terminals, but also, as word processing equipment is replaced under the Office Automation Program beginning in fiscal year 1987, in the chambers of circuit and district judges. The latter part of the program will be phased in over at least four fiscal years, and increases, commensurate with the delivery of the new automation equipment, will be sought in fiscal years 1988, 1989, and 1990. The court library system will continue to provide the support services required to operate an effective nationwide CALR system. Bankruptcy judges and magistrates will continue to use the shared terminals.

Since 1977, when the Federal Judicial Center tested and recommended in a study the installation of CALR in the Judiciary, its use has become an integral part of all research done in the legal profession. A computer can speed up research, and the user can perform research that was formerly impractical or impossible to do. The Judiciary has benefitted substantially by having access to this valuable and essential tool. Having CALR available in chambers accelerates the opinion production process, makes citation checking more convenient, and gives the judges and law clerks the ability to have immediate answers to the legal questions which arise during trials and hearings.

Fiscal year 1987 will be the first year of the Office Automation Program. It is anticipated that 20 circuit judges and 70 district court judges will be able to access CALR in chambers at the cost of approximately $480,000 for services and maintenance. Therefore, an additional $480,000 is requested for expansion of CALR during fiscal year 1987.

In each of fiscal years 1988, 1989, and 1990, approximately 214 additional circuit and district court judges will have equipment capable of using CALR services in chambers, for an extra cost of $530,000 in 1988, $400,000 in 1989, and $350,000 in 1990. Requests for these additions to the base appropriations will be forthcoming as the CALR program is phased into operation in conjunction with the Office Automation Program.

d. Bankruptcy Court Automation Project ($3,697,000)

BANCAP is currently under development by the Federal Judicial Center and will be transferred to the Administrative Office for maintenance and expansion in fiscal year 1986. The system will provide full electronic docketing and case management capabilities in bankruptcy offices.

An additional $3,697,000 is requested so that an additional 10 courts can be outfitted with needed equipment during fiscal year 1987.

Item 13. Increased Use of Interpreters Resulting from Passage of the Comprehensive Crime Control Act of 1984 ($700,000)

As a result of passage of the Comprehensive Crime Control Act of 1984, the cost of interpreter services in the district courts has increased dramatically. The Act implements more restrictive guidelines with respect to the release of persons pending trial or pending sentencing or appeal. Consequently, more reviews of detention orders are being conducted by judicial officers and, in the case of non-English speaking persons, an interpreter is required as authorized by the Court Interpreters Act, Public Law 95-539.

The following table shows the cost of interpreter services in fiscal year 1984 (prior to passage of the Act on October 12, 1984) and fiscal year 1985 and estimates for fiscal years 1986 and 1987.

Fiscal Year	Amount
1984	$1,112,000
1985	1,650,000
1986	1,800,000
1987	1,900,000

Since the appropriation base contains only $1,200,000 for interpreter services, the additional sum of $700,000 is requested.

Item 14. Orientation Expenses for Office Automation ($300,000)

The sum of $300,000 is requested for fiscal year 1987 to cover the cost of orientation expenses for office automation. Over the last five years a considerable amount of office automation equipment has been installed throughout the Judiciary in order to assist in the processing of caseload and the management of the courts. During this period, however, no funds have been specifically made available for orienting court employees in the use of this equipment. Orientation expenses with respect to personal computers are generally required for the specific software being utilized by the particular court office. Orientation expenses for word processing equipment would only be incurred for follow-on training of a successor employee or for advanced training.

Due to the size of the office automation equipment inventory currently in the courts and the demand for orientation for this equipment, the sum of $200,000 is requested to cover the cost of orientation expenses (tuition). The request is based on an estimated 200 personal computers for which two orientation courses will be required annually at an average cost of $400 ($160,000), plus an estimated $40,000 to cover orientation costs related to over 1,600 word processors throughout the courts. An additional $100,000 is required for travel costs associated with orientation. Travel is in the best interest of the government when group orientation at a central location is more cost effective than individual orientation in the same location as the particular court. Examples of such situations include the orientation of systems administrators (an increasing number of courts have such positions) and when a number of individuals can be oriented at the same time if they work with compatible equipment.

Item 15. Furniture and Furnishings Required Incident to Prospective Projects ($3,405,000)

It is estimated that expansion and remodeling of additional space at 18 locations will increase available space by 237,280 square feet during fiscal year 1987. The locations of these prospective projects are shown on page 10.8 of the justification for the appropriation "Space and Facilities."

The furniture and furnishings requirements for this newly renovated space, computed at a rate of $14.35 per square foot, will total $3,405,000 (of which $3,064,000 will be nonrecurring). The rate per square foot was derived by applying the overall anticipated increase in expenditures of 4 percent to the estimated 1986 rate of $13.80 per square foot.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SPACE AND FACILITIES

Summary of Requirements

Appropriation 1986 (enacted to date)	$147,000,000
Sequestered pursuant to P.L. 99-177	-6,321,000
Budget Authority, 1986	140,679,000
1987 budget estimate	182,200,000
Proposed Increase	41,521,000

Appropriation Language

SPACE AND FACILITIES

For rental of space, alterations, and related services and facilities for the United States Courts of Appeals, District Courts, [Bankruptcy Courts,] and Claims Court, [$147,000,000] $182,200,000

SPACE AND FACILITIES
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page No.	Summary of Changes:	1987 Request Perm. Pos.	1987 Request Amount
	Appropriation 1986 (enacted to date)	...	$147,000
	Sequestered pursuant to P.L. 99-177	...	-6,321
	Budget Authority, 1986	...	140,679
	Adjustments to base and built-in changes:		
10.5	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+ 6,321
10.5	2. Restoration of reduced fiscal year 1986 budget authority resulting from the carry forward of an unobligated balance	...	+ 910
10.5	3. Restoration of the reduction to the fiscal year 1986 appropriation base	...	+ 3,000
10.5	4. Annualization of expenses associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984	...	+ 408
10.6	5. Increase in space rental costs	...	+26,705
10.7	6. Increase in cost of building services	...	+ 496
	Subtotal, adjustments to base and built-in changes	...	+37,840
	Program changes:		
10.7	7. Space required incident to prospective projects	...	+ 2,760
10.8	8. Space and reimbursable services related to requests for additional senior judges and magistrates	...	+ 921
	Subtotal, program changes	...	+ 3,681
	Total increases requested	...	+41,521
	Total appropriation requested, 1987	...	$182,200

SPACE AND FACILITIES

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1986)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Space and facilities	...	$148,996	...	$178,519	...	$182,200	...	$+3,681
Sequestered pursuant to P.L. 99-177	...	-6,321	...	.....	...	.....	...	.....
Total obligations	...	142,675	...	178,519	...	182,200	...	+3,681
Unobligated balance, start of year	...	-1,996	...	.....	...	.....	...	.....
Budget Authority	...	$140,679	...	$178,519	...	$182,200	...	$+3,681

Object Classification
(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
23	Standard level user charges..........................	$136,228	$168,748	$+32,520
	Rental payments to others............................	375	375	...
	Communications, utilities and miscellaneous charges..	1,476	1,535	+59
25	Repairs and alterations..............................	10,692	11,317	+625
31	Equipment..	225	225	...
	Subtotal...	148,996	182,200	+33,204
Sequestered pursuant to P.L. 99-177		-6,321	.....	+6,321
	Total obligations....................................	$142,675	$182,200	$ 39,525

Relation of Obligations to Outlays
(In thousands of dollars)

	1986			1987	Difference (+)
	Total	Sequestered	Estimate	Estimate	or (-)
Obligations incurred, net	$148,996	$-6,321	$142,675	$182,200	$+39,525
Obligated balance, start of year	14,172	...	14,172	10,425	-3,747
Obligated balance, end of year	-10,978	553	-10,425	-10,590	-165
Outlays	$152,190	$-5,768	$146,422	$182,035	$+35,613

General Statement

This appropriation is to cover the cost of space rental, utility charges, repairs, and tenant alterations for the United States courts of appeals, district courts, and Claims Court, excluding the Supreme Court, Court of Appeals for the Federal Circuit, Court of International Trade, Defender Services, the Administrative Office of the United States Courts, and the Federal Judicial Center. For basic statutory authority, reference is made to the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Proposed Language Change

The designation "Bankruptcy Courts" is being deleted from the appropriation language in accordance with provisions of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law 98-353.

Justification of Changes

An appropriation of $182,200,000 is requested for fiscal year 1987, which represents an increase of $41,521,000 over fiscal year 1986.

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($6,321,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 precent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $6,321,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Restoration of Reduced Fiscal Year 1986 Budget Authority Resulting from the carry forward of an Unobligated Balance ($910,000)

In the supplemental appropriations bill for fiscal year 1985, the Congress authorized that funds in certain appropriations remain available for obligation until the end of fiscal year 1986 (September 30, 1986). This was done with the intent that the balances in those appropriations at the end of fiscal year 1985 would be available for obligation in fiscal year 1986. As a result, the fiscal year 1986 appropriations requests were subsequently reduced and in order to restore the appropriation base to the 1985 level, the sum of $910,000 has been included in this request. This represents part of the unobligated balance which was carried forward into 1986 for obligation.

Item 3. Restoration of the Reduction of the Fiscal Year 1986 Appropriation Base ($3,000,000)

In the appropriations bill for fiscal year 1986, the Congress reduced the 1986 appropriation base in order to achieve spending levels required by the budget reconciliation process. The sum of $3,000,000 has been included in this request to restore the appropriation base to the 1985 level.

Item 4. Annualization of Expenses Associated with the Bankruptcy Amendments and Federal Judgeship Act of 1984 ($408,000)

The Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law 98-353, created 85 new Federal judgeships and amended the retirement provisions of Article III judges which is estimated to result in 19 more judges taking senior status. The total projected cost of implementing this legislation relating to space rental, tenant alterations, and reimbursable services is $6,833,000 (as shown in the table below). The final cost impact of $408,000 in fiscal year 1987 is hereby requested.

Space Costs for P.L. 98-353

	Total Cost	Fiscal Year Budget Impact (Dollars in Thousands) 1985 Supplemental	1986 Increase	1987 Increase
New Judgeships:				
Rental of Space - [1]				
24 Circuit Judgeships @ $29,000	696	189	459	48
61 District Judgeships @ $67,100	4,093	1,109	2,697	287
Tenant Alterations and Reimbursable Services -				
24 Circuit Judgeships @ $11,000	264	72	174	18
61 District Judgeships @ $13,000	793	215	523	55
Subtotal	5,846	1,585	3,853	408
Change in Retirement Provision:				
Rental of Space -				
19 Additional Senior Judges @ $51,950[2]	987	675	312	...
Total	$6,833	$2,260	$4,165	$408

[1] It is assumed that there will be 53 judges on board at the end of fiscal year 1985 and the balance (32) at the end of 1986.

[2] It is assumed that all 19 judges will take senior status in fiscal year 1985.

Item 5. Increase in Space Rental Costs ($26,705,000)

Based on the projected billing document received from the General Services Administration (GSA) in May 1985, the Judiciary's rental costs in fiscal year 1987 for space currently occupied and expected to be delivered during 1986 will amount to $165,222,000, an increase of $26,705,000 over appropriation base of $138,517,000, which includes the restoration of 1986 budget authority in the amount of $10,231,000. This represents an anticipated increase of 19.3 percent in rent charges by GSA, taking into account the annualization of new and remodeled facilities to be delivered during fiscal year 1986. The following table is a summary of the fiscal year 1987 space rent necessary to cover the costs of space currently occupied and to be delivered, excluding space for expanded or remodeled facilities and new positions.

FISCAL YEAR 1987 SLUC RATE DEVELOPMENT

Description	Square Footage	FY 1987 Estimate ($000)	Average Cost Per Sq. Ft.
Currently occupied space:			
Fiscal Year 1985 cost...	12,108,205	$130,775	$10.80
Fiscal Year 1987 cost...	12,108,205	$159,597*	$13.18
New space to be delivered during 1986.............	418,857	5,625**	$13.43
Total space to be occupied during 1987 (full year).............	12,527,062	$165,222	$13.19
Amount Available, FY 1986 (including restoration)............		-138,517	
Increase requested, FY 1987...........		$26,705	

*Based on fiscal year 1987 SLUC estimate received from GSA.

**Annual cost of space to be delivered during fiscal year 1986.

Item 6. Increase in Cost of Building Services ($496,000)

It is estimated that an additional $496,000 will be required in fiscal year 1987 to cover increased charges due to a projected 4 percent increase in the cost of building services as follows:

	F. Y. 1986 Appropriation	Projected Cost	Increased Amount
Overtime Utilities...	$ 1,070,000	$ 1,113,000	$ 43,000
Leased Parking Facilities.........	378,000	393,000	15,000
Tenant Alterations...	10,817,000	11,250,000	433,000
Other Services.......	128,000	133,000	5,000
TOTAL....................			$496,000

Item 7. Space Required Incident to Prospective Projects ($2,760,000)

Expansion and remodeling of additional space is to take place at the following locations for a total of 237,280 square feet at a cost of $2,760,000 (which includes an 8 percent deduction to allow for the delay in occupancy):

Circuit/ Location	Sq. Ft.	Cost Per Sq. Ft.	Total Annual Cost
SECOND			
NY, Hauppauge	19,200	13.08	$251,136
NY, Buffalo	14,820	16.35	242,307
FOURTH			
VA, Richmond	6,000	12.74	76,440
VA, Roanoke	8,800	11.44	100,672
VA, Abingdon	7,100	8.45	59,995
WV, Charleston	14,000	9.29	130,060
FIFTH			
LA, Lafayette	7,000	8.77	61,390
TX, Sherman	5,000	7.79	38,950
TX, Tyler	5,800	11.54	66,932
SIXTH			
OH, Columbus	5,000	16.36	81,800
SEVENTH			
IL, E. St. Louis	21,485	20.00	429,700
IL, Peoria	7,900	8.29	65,491
IN, Ft. Wayne	8,300	11.64	96,612
EIGHTH			
MO, St. Louis	24,322	11.57	281,406
AR, Little Rock	29,500	8.63	254,585
NINTH			
CA, Los Angeles	13,360	17.91	239,278
WA, Seattle	26,383	15.68	413,685
WA, Tacoma	13,310	8.20	109,142
	237,280		2,999,581
Reduction for Delay in Occupancy...			-239,581
			$2,760,000

Item 8. Space and Reimbursable Services Related to Requests for Additional Senior Judges and Magistrates ($921,000)

Provision has been made for additional judicial officers and their supporting personnel in the United States courts of appeals and district courts, under the headings "Salaries of Judges," and "Salaries of Supporting Personnel." The sum of $921,000 will be required in fiscal year 1987 for recurring space rental expenses, tenant alterations, and other reimbursable services for the new personnel, computed as follows:

Related Appropriation, Item Number, and Title	No. of Positions	Square Feet	Space Requirements	Reimbursable Services	Total
			(dollars in thousands)		
Salaries of Judges					
4. Anticipated increase in the number of senior judges:					
Circuit..	(1)	2,550	$ 29	$ 12	$ 41
District...	(5)	25,350	388	69	457
Salaries of Supporting Personnel					
7. Five new full-time magistrates and conversion of two part-time magistrates to full-time status (including supporting personnel)..	23	24,500	389	34	423
Total......................................			$806	$115	$921

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

COURT SECURITY

Summary of Requirements

Appropriation 1986 (enacted to date)	$32,750,000
Sequestered pursuant to P.L. 99-177	-1,408,000
Budget Authority, 1986	31,342,000
1987 budget estimate	39,950,000
Proposed Increase	8,608,000

Appropriation Language

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; [$32,750,000], to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General. $39,950,000

COURT SECURITY
FISCAL YEAR 1987
(Dollar amounts in thousands)

		1987 Request	
	Summary of Changes:	Perm. Pos.	Amount
	Appropriation 1986 (enacted to date)	15	$32,750
	Sequestered pursuant to P.L. 99-177	...	-1,408
	Budget Authority, 1986	15	31,342
Page No.	**Adjustments to base and built-in changes:**		
11.5	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+1,408
11.5	2. Increases in the cost of contractual services and equipment	...	+1,502
11.6	3. Nonrecurring expenses authorized in fiscal year 1986	...	- 272
	Subtotal, adjustments to base and built-in changes	...	+2,638
	Program changes:		
11.6	4. Additional contract security officers	...	+5,090
11.7	5. Security equipment	...	+ 496
11.7	6. Administrative support	+ 4	+ 384
	Subtotal, program changes	+ 4	+5,970
	Total increases requested	+ 4	+8,608
	Total appropriation requested, 1987	19	$39,950

COURT SECURITY

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent Comparison by activities:	1986 Appropriation Perm. Pos.	1986 Appropriation Amount	1986 Adjusted (Base for 1987) Perm. Pos.	1986 Adjusted (Base for 1987) Amount	1987 Request Perm. Pos.	1987 Request Amount	Increase 1987 over 1986 as Adjusted Perm. Pos.	Increase 1987 over 1986 as Adjusted Amount
Court Security	15	$33,193	15	$33,980	19	$39,950	4	$5,970
Sequestered pursuant to P.L. 99-177	...	-1,408	...	.....	...	.....	...	.....
Total Obligations	15	31,785	15	33,980	19	39,950	4	5,970
Unobligated balance available, start of year	...	-443	...	.....	...	.....	...	.....
Budget Authority	15	$31,342	15	$33,980	19	$39,950	4	$5,970

Object Classification
(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
11	Personnel Compensation	$ 418	$ 606	$+ 188
12	Personnel Benefits	47	64	+ 17
21	Travel and Transportation of Persons	113	123	+ 10
22	Transportation of Things	...	...	+ ...
23	Standard Level User Charges	559	649	+ 90
	Communications, Utilities and Miscellaneous Charges	30	40	+ 10
24	Printing and Reproduction	2	9	+ 7
25	Other Services	26,142	32,260	+6,118
26	Supplies and Materials	15	63	+ 48
31	Equipment	5,867	6,136	+ 269
	Subtotal	33,193	39,950	+6,757
	Sequestered pursuant to P.L. 99-177	-1,408	.....	+1,408
	Total obligations	$31,785	$39,950	$+8,165

Relation of Obligations to Outlays
(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net..........	$33,193	$-1,408	$31,785	$39,950	$+8,165
Obligated balance, start of year...	6,419	...	6,419	7,706	+1,287
Obligated balance, end of year.....	-8,032	326	-7,706	-9,668	-1,962
Outlays...........................	$31,580	$-1,082	30,498	$37,988	$+7,490

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions..............	15	19	+ 4
Total compensable workyears:			
Full-time equivalent employment..........................	15	19	+ 4
Full-time equivalent of overtime and holiday hours........	...	...	...

General Statement

This appropriation provides for the necessary expenses of security and protective services for the United States Courts in courtrooms and adjacent areas thereto, to be transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Facility Security Program. For basic statutory authorities, reference is made to the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

In July 1981, at the request of the Chief Justice, the Attorney General formed a Task Force on Court Security. At the March 1982 meeting of the Judicial Conference, the Chief Justice and the Attorney General announced in a Joint Statement the recommendations of the Task Force and the agreement between the Judiciary and the Department of Justice to implement these recommendations. The Attorney General requested and received a Delegation of Procurement Authority from the Administrator of GSA for the purpose of providing security and protective services. Based on this delegation, the Marshals Service has assumed responsibility for the contracting of guard services and the acquisition and maintenance of security equipment.

The appropriation for court security was established in fiscal year 1983 to fund the program recommended by the Attorney General's Task Force report on court security.

In order to identify the resources necessary to provide an adequate level of security, each district court has established a court security committee composed of the chief judge of the district, clerk of the court, United States marshal, United States attorney, and a representative of the agency who is responsible for managing the facility. To aid the committee in the establishment of the security requirements for each location, the United States Marshals Service is responsible for providing up-to-date security surveys of each facility.

Justification of Changes

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit and Control Act of 1985 ($1,408,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $1,408,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Increases in the Cost of Contractual Services and Equipment ($1,502,000)

Of the $32,750,000 appropriated for Court Security in fiscal year 1986, $25,712,000 is available to cover the cost of contractual guard services and $5,424,000 is available for the purchase, installation and maintenance of security equipment. It is estimated that expenses for contractual guard services will increase approximately 5 percent in fiscal year 1987 ($1,286,000), and the cost of equipment approximately 4 percent ($216,000). Accordingly, $1,502,000 is requested to provide for inflationary increases above the amount currently available.

Item 3. Nonrecurring Expenses Authorized in Fiscal Year 1986 ($-272,000)

In fiscal year 1986, the Congress authorized 60 additional contract guards. The nonrecurring costs for the orientation of these guards have been deducted as nonrecurring in establishing the fiscal year 1987 requirements.

Item 4. Additional Contract Security Officers ($5,090,00)

The sum of $5,090,000 is requested for 226 additional court security officers. This represents a 25 percent increase in the number of court security officers as provided in the 1986 budget. In developing our security estimates for 1987, the court security committees were asked to identify their total requirements. The committees requested a total of 1,341 court security officers to implement their current security plans, or an additional 453 officers above the amount authorized in fiscal year 1986. These additional security officer positions will be phased in during fiscal years 1987 and 1988. Accordingly, this request will provide for a total of 1,114 court security officers, which represents an increase of approximately 50 percent of the total number of court security officers requested.

A total of 828 court security officers were on duty in 94 judicial districts by the close of fiscal year 1985. By the close of 1986, 888 court security officers, as approved by Congress, will be on duty providing a minimum level of security in most districts. The additional 226 court security officers requested for fiscal year 1987 will provide coverage to those districts currently without court security officers as well as enhance the level of safety of federal judges and magistrates, employees, jurors, witnesses, spectators, and other trial participants in judicial facilities that are staffed with less than the minimum number of court security officers as determined by the respective court security committees.

The issue of adequate and appropriate court security has been a long term concern of the federal judiciary. Judges need to know that the judicial process can proceed in their courts in a climate free from the aprehension and intimidation of disorder or violence. During the past years deputy United States marshals and Court Security Officers have dealt with an increasing number of threats against the judiciary. The very nature of judicial proceedings creates a volatile and potentially dangerous environment. The increase in high profile trials, often drug related, also attracts a different breed of spectators. The function of the court security officer program is to ensure that those individuals who may interject intimidation through violence never reach the courtroom environment. The real-life situations a court security officer must face every day, and incidents for potential violence which he must defuse, are numerous. Court Security Officers, unlike the deputy United States marshals, provide security for the perimeter of the courtroom and its environs. As the General Services Administration reduces the number of Federal Protection Officers, the void must be filled. The unique function of court security officers must be utilized to offset this reduction of Federal Protection Officers at a time when the potential for violence and intimidation is clearly growing.

A detail of the additional requirements follows:

	Amount
226 court security officers providing 136 manyears @ $28,744	$3,909,000
Guard Orientation:	
226 selected for duty @ $3,959 (NR)*	895,000
34 oriented for a 25% back-up @ $2,870 (NR)*	98,000
34 turnover rate 25% @ $2,870	98,000
Space: 136 @ $13.18 for 50 sq. ft. per guard	90,000
Total	$5,090,000

*Non-recurring

Item 5. Security Equipment ($496,000)

The sum of $496,000 is requested to provide for security equipment in the circuit, district and bankruptcy courts. The funds available for equipment in 1987 will enable the Marshals Service to virtually complete the installations of security systems in all federal courthouses as requested by the court security committees. Based on these requests, standard items of security equipment are installed in courtrooms and in judges' chambers. In chambers, an entry control system consisting of a closed circuit television camera, intercom, and an electric door strike is installed at the entrance and a closed circuit television monitor, intercom, an electric door release is installed in the judges' chambers and at the secretary's desk. Duress alarms are installed in the judges' chambers and at the secretary's desk to alert the U.S. marshal of any problems. An emergency light is installed in chambers in the event of a power failure so that evacuation can be made in an orderly manner.

For courtroom security, judges' benches are reinforced with ballistic material, duress alarms are installed on judges' benches and at the clerk's bench, emergency lights are installed, and if required a key operated light switch is installed to prevent someone from turning off the lights in the courtroom.

Other items of equipment such as x-ray units and metal detectors are purchased for use by the U.S. marshal at courtroom entrances for problem trials or at entrances of buildings to screen visitors.

In fiscal year 1988, most of the funds available for purchase of equipment will be conceded. Only an amount sufficient to repair and replace existing systems and to provide security systems for any new or renovated court locations will be required.

A detail of the additional requirements follows:

Equipment requested by districts	$4,756,000
Maintenance and Repair	658,000
Replacement of systems	506,000
Subtotal	5,920,000
Offset by amount available in 1986	-5,424,000
Additional amount required	$ 496,000

Item 6. Administrative Support (4 positions, $384,000)

The sum of $384,000 is requested for four administrative positions. Of this amount, $188,000 is for personnel compensation, $17,000 for related benefits, $10,000 for travel, $129,000 for contractual services related to accessing the Department of Justice's computers, and $40,000 for

Mr. SMITH. We have with us two distinguished jurists this morning, our former colleague, Judge William Hungate, and Judge Charles Clark, Chairman of the Budget Committee of the Judicial Conference. Judge Clark, please proceed with your statement.

GENERAL STATEMENT

Judge CLARK. Thank you, Mr. Chairman.

I would like, at this time, Mr. Chairman, to offer for the record a copy of the statement that I prepared as an opening statement for the Committee. A copy has previously been furnished to the staff.

Mr. SMITH. Without objection, it will be so entered.

[The prepared statement follows:]

STATEMENT OF
JUDGE CHARLES CLARK
ON BEHALF OF THE
BUDGET COMMITTEE OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

CHARLES CLARK, CHAIRMAN
CHIEF JUDGE, UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT

SOLOMON BLATT, JR.
UNITED STATES DISTRICT JUDGE, DISTRICT OF SOUTH CAROLINA

RALPH H. KELLEY
UNITED STATES DISTRICT JUDGE, EASTERN DISTRICT OF TENNESSEE

WILLIAM L. HUNGATE
UNITED STATES DISTRICT JUDGE, EASTERN DISTRICT OF MISSOURI

THOMAS J. MESKILL
UNITED STATES CIRCUIT JUDGE, SECOND CIRCUIT

DONALD E. O'BRIEN
CHIEF JUDGE, NORTHERN DISTRICT OF IOWA

OWEN M. PANNER
CHIEF JUDGE, DISTRICT OF OREGON

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

THANK YOU FOR THE OPPORTUNITY TO ONCE AGAIN PRESENT TO YOU THE BUDGET ESTIMATES FOR THE OPERATION OF THE UNITED STATES COURTS OF APPEALS AND DISTRICT COURTS FOR FISCAL YEAR 1987.

JUDGE WILLIAM HUNGATE OF THE EASTERN DISTRICT OF MISSOURI, A MEMBER OF THE BUDGET COMMITTEE SINCE 1983, APPEARS WITH ME TODAY.

MR. L. RALPH MECHAM, DIRECTOR OF THE ADMINISTRATIVE OFFICE, AND MEMBERS OF HIS STAFF WILL ALSO ASSIST ME IN THE PRESENTATION. WE SHALL ATTEMPT TO ANSWER ANY QUESTIONS YOU MAY HAVE AND WILL PROVIDE ANY ADDITIONAL MATERIAL YOU MAY REQUIRE.

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

MR. CHAIRMAN, IN ORDER TO ACHIEVE THE 4.3 PERCENT SEQUESTRATION MANDATED BY THE GRAMM/RUDMAN/HOLLINGS LEGISLATION, ALL PHASES OF COURT OPERATIONS WERE SCRUTINIZED. AS DIRECTED BY THE CHIEF JUSTICE, A PLAN DEVELOPED BY THE BUDGET COMMITTEE HAS BEEN SUBMITTED TO THE EXECUTIVE COMMITTEE BY THE JUDICIAL CONFERENCE AND, UPON THEIR APPROVAL OR REVISION, WILL BE SUBMITTED TO THE JUDICIAL CONFERENCE OF THE UNITED STATES AT ITS MARCH 12-13, 1986 MEETING. WE ARE SURE THAT PLAN WILL REQUIRE REPROGRAMMING WITHIN APPROPRIATION ACCOUNTS AND TRANSFER BETWEEN APPROPRIATION ACCOUNTS. THE NECESSARY REPROGRAMMING AND TRANSFER

REQUESTS WILL BE PROVIDED TO YOUR COMMITTEE AS SOON AS THEY HAVE BEEN DETERMINED.

FISCAL YEAR 1986 PROGRAM SUPPLEMENTAL REQUESTS

CURRENTLY PENDING BEFORE YOUR COMMITTEE IS A SUPPLEMENTAL APPROPRIATION REQUEST FOR THE ACCOUNTS "SALARIES OF SUPPORTING PERSONNEL" AND "FEES OF JURORS AND COMMISSIONERS."

SALARIES OF SUPPORTING PERSONNEL

THE JUDICIARY IS REQUESTING AUTHORIZATION TO APPOINT 200 PERMANENT DEPUTY CLERK POSITIONS TO STAFF BANKRUPTCY OFFICES IN DISTRICT COURTS AND $1,200,000 TO FUND THESE POSITIONS FOR A PERIOD OF THREE MONTHS (JULY 1 THROUGH SEPTEMBER 30, 1986). BANKRUPTCY FILINGS IN THE FIRST QUARTER OF FISCAL YEAR 1986 (OCTOBER THROUGH DECEMBER) ARE UP 33 PERCENT ABOVE THE SAME PERIOD ONE YEAR AGO. AT THIS RATE, THEY COULD EXCEED THE 500,000 LEVEL BY THE END OF THE YEAR. HOWEVER, BECAUSE BANKRUPTCY FILINGS ARE SO VOLATILE, WE ARE ONLY SEEKING STAFF TO HANDLE A VERY CONSERVATIVE ESTIMATE OF 440,000 FILINGS, AN INCREASE OF 50,000 FILINGS ABOVE THE ESTIMATE PROVIDED IN OUR FISCAL YEAR 1986 BUDGET REQUEST.

FEES OF JURORS AND COMMISSIONERS

THE BUDGET FOR FISCAL YEAR 1986 WAS BASED ON A STATISTICAL

FORECAST OF 685,000 PETIT JUROR DAYS. BASED ON A SUBSTANTIAL INCREASE IN JUROR ACTIVITY IN THE LAST QUARTER OF 1985, WHICH IS CONTINUING INTO THE FIRST QUARTER OF 1986, IT IS NECESSARY TO REVISE OUR ESTIMATES UPWARD TO 725,000 PETIT JUROR DAYS. BASED ON THIS UNEXPECTED SURGE IN JUROR ACTIVITY AND TAKING INTO CONSIDERATION THE SEQUESTRATION OF $1,866,000, WE WILL REQUIRE A SUPPLEMENTAL APPROPRIATION OF $3,800,000 TO AVOID A DEFICIENCY. AS YOU KNOW, THIS ACCOUNT IS, FOR THE MOST PART, UNCONTROLLABLE. WE HAVE NO ALTERNATIVE TO PROVIDING JURY TRIALS AND PAYING THE JURORS FOR THEIR SERVICE IN ACCORDANCE WITH THE RATES PRESCRIBED BY LAW.

FISCAL YEAR 1987 BUDGET REQUEST

OUR BUDGET REQUESTS FOR 1987 REPRESENT THE MINIMUM INCREASES CONSISTENT WITH THE GROWING WORKLOAD OF THE COURTS. THE BUDGET REQUIREMENTS FOR THE COURTS OF APPEALS AND DISTRICT COURTS TOTAL $1,144,935,000, $181 MILLION AND 1,389 POSITIONS OVER FISCAL YEAR 1986. (THIS REFLECTS A REDUCTION OF 33 AUTHORIZED POSITIONS IN THE SPECIAL RAIL REORGANIZATION COURT WHICH WERE NEVER FILLED.) APPROXIMATELY 71 PERCENT OF THE INCREASE IN FUNDING IS FOR THE COST OF MAINTAINING THE CURRENT LEVEL OF SERVICES AND FOR THE RESTORATION OF THE APPROPRIATION BASE RESULTING FROM REDUCTIONS IN 1986 BUDGET AUTHORITY WHICH I WILL DISCUSS IN SOME DETAIL LATER. THE REMAINING AMOUNT AND THE ADDITIONAL POSITIONS ARE

REQUIRED PRINCIPALLY BY CONTINUED INCREASES IN CASE FILINGS AND THE IMPACT OF RECENT LEGISLATION ON THE WORKLOAD OF THE COURTS.

INCREASED CASELOAD

INCREASES IN THE JUDICIARY CASELOADS ARE SHOWN ON THE FIVE-YEAR TABLE AT ATTACHMENT 1. FROM FISCAL YEAR 1980 THROUGH FISCAL YEAR 1985, THE COMBINED TOTAL OF CIVIL AND CRIMINAL CASE FILINGS INCREASED BY 118,000 (59 PERCENT) AND APPEALS BY 10,000 (44 PERCENT). BANKRUPTCY FILINGS INCREASED BY 83,000 PETITIONS (28 PERCENT). THE MAGISTRATES' WORKLOAD ALSO INCREASED BECAUSE OF ADDITIONAL DUTIES DELEGATED TO THEM BY THE JUDGES OF THE DISTRICT COURTS. THE PROBATION SERVICE CONTINUES TO EXPERIENCE INCREASES IN PERSONS RECEIVED FOR SUPERVISION, PERSONS UNDER SUPERVISION, AND THE NUMBER OF PRESENTENCE INVESTIGATIONS. DURING THIS SAME FIVE-YEAR PERIOD, THE STAFFING OF THE COURTS FOR ALL OF THESE FUNCTIONS INCREASED 31 PERCENT, FROM 12,622 TO 16,516 POSITIONS. THIS LIMITED INCREASE IN PERSONNEL REFLECTS OUR EFFORTS TO IMPROVE EFFICIENCY IN THE ADMINISTRATION OF THE BUSINESS OF THE COURTS.

APPROPRIATIONS REQUESTED FOR FISCAL YEAR 1987

OUR REQUEST OF $1,144,935,000 FOR FISCAL YEAR 1987 REPRESENTS AN INCREASE OF $181,350,000 OVER THE AMOUNTS APPROVED FOR FISCAL YEAR 1986. IT ASSUMES THE SUPPLEMENTAL AND TRANSFERS

REQUIRED FOR 1986 WILL BE GRANTED. THIS INCREASE CONSISTS OF $128,091,000 FOR ADJUSTMENTS TO BASE AND $53,259,000 FOR PROGRAM CHANGES. AS I MENTIONED EARLIER, 71 PERCENT OF THE $181 MILLION INCREASE IS ATTRIBUTED TO RESTORATION OF THE 1986 APPROPRIATION BASE. THESE RESTORATIONS, WHICH ARE SHOWN BY APPROPRIATION AT ATTACHMENT 2, TAKE THE FORM OF THREE SEPARATE ACTIONS. FIRST, THE SEQUESTRATION OF FUNDS RESULTING FROM PASSAGE OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT, PUBLIC LAW 99-177. ALTHOUGH THE CONSTITUTIONALITY OF THIS ACT HAS BEEN CHALLENGED, WE MUST ANTICIPATE THAT THESE FUNDS WILL BE WITHDRAWN FROM US BY THE CHALLENGED SEQUESTRATION OR BY BACK-UP CONGRESSIONAL ACTION. SECOND, OUR 1986 BUDGET REQUEST WAS REDUCED BY THE CONGRESS AS A RESULT OF THE SUPPLEMENTAL APPROPRIATIONS BILL FOR FISCAL YEAR 1985 WHICH AUTHORIZED THAT FUNDS IN CERTAIN APPROPRIATIONS REMAIN AVAILABLE FOR OBLIGATION UNTIL THE END OF FISCAL YEAR 1986. THIS WAS DONE WITH THE INTENT THAT THE BALANCES IN THOSE APPROPRIATIONS AT THE END OF FISCAL YEAR 1985 WOULD BE AVAILABLE FOR OBLIGATION IN FISCAL YEAR 1986. AS A RESULT, OUR 1986 APPROPRIATION REQUESTS WERE SUBSEQUENTLY REDUCED BY THE ESTIMATED AMOUNT OF THESE UNOBLIGATED BALANCES. THIRD, IN ORDER TO ACHIEVE SPENDING LEVELS REQUIRED BY THE BUDGET RECONCILIATION PROCESS, THE CONFERENCE COMMITTEE MADE ADDITIONAL REDUCTIONS TO OUR 1986 BUDGET REQUESTS. ALTHOUGH WE ARE TAKING DRASTIC ACTIONS TO LIVE WITH THESE REDUCTIONS DURING 1986, IT IS IMPERATIVE THAT THESE AMOUNTS BE RESTORED TO THE BUDGET BASE.

IF WE EXCLUDE THE COST OF THE ADJUSTMENTS TO BASE, WHICH ARE OF AN UNCONTROLLABLE NATURE, OUR ADDITIONAL PROGRAM REQUIREMENTS WOULD REPRESENT A FIVE PERCENT INCREASE IN THE BUDGET. THESE PROGRAM REQUIREMENTS CONSIST PRIMARILY OF 1,422 POSITIONS: 37 FOR THE MAGISTRATE SYSTEM, 276 DEPUTY CLERKS FOR THE COURTS OF APPEALS AND DISTRICT COURTS, 466 BANKRUPTCY DEPUTY CLERKS, 491 FOR PROBATION AND PRETRIAL SERVICES, 55 FOR THE ELECTRONIC SOUND RECORDING PROGRAM, 78 OTHER SUPPORTING PERSONNEL FOR THE COURTS OF APPEALS AND DISTRICT COURTS, 15 FOR THE FEDERAL PUBLIC DEFENDER OFFICES, AND FOUR POSITIONS FOR COURT SECURITY. TO REFLECT THE PHASE-IN OF THESE NEW POSITIONS, OUR 1987 REQUEST FOR DEPUTY CLERKS AND PROBATION SERVICE PERSONNEL INCLUDES FUNDING FOR ONLY 60 PERCENT OF THE FULL YEAR COST.

CASELOAD

THE PENDING CASELOAD IN THE COURTS OF APPEALS REACHED A RECORD HIGH OF 24,925 DESPITE THE CONTINUING INCREASE IN TERMINATIONS. THE NUMBER OF APPEALS TERMINATED IN FISCAL YEAR 1985 INCREASED BY 48 PERCENT OVER 1980. THIS INCREASE IN TERMINATIONS, HOWEVER, BARELY KEPT PACE WITH THE GROWTH IN NEW FILINGS WHICH INCREASED 44 PERCENT DURING THE SAME PERIOD.

DISTRICT COURT CRIMINAL FILINGS ROSE FROM 29,387 IN 1980 TO 39,720 IN 1985, AN INCREASE OF 35 PERCENT. CIVIL FILINGS CONTINUE TO INCREASE WITHOUT PAUSE: APPROXIMATELY 279,000 CASES

WERE FILED IN FISCAL YEAR 1985. OVER THE PAST FIVE YEARS, THE NUMBER OF CIVIL CASES FILED HAS INCREASED BY 63 PERCENT. NOTWITHSTANDING A 61 PERCENT INCREASE IN THE RATE OF TERMINATIONS (310,546 IN 1985 OVER 192,965 IN 1980), THE GROWTH IN CIVIL AND CRIMINAL FILINGS OVER THE PAST FIVE YEARS HAS CAUSED THE PENDING CASELOAD TO GROW BY 36 PERCENT, TO A RECORD OF 279,821.

THE DECLINE IN BANKRUPTCY PETITIONS EXPERIENCED IN 1983 AND 1984 HAS ENDED. FILINGS INCREASED IN 1985 BY 11 PERCENT OVER 1984, FROM 346,609 TO 383,510, A RECORD HIGH. THE NUMBER OF NEW FILINGS IN 1985 IS 28 PERCENT GREATER THAN THE FILINGS FOR 1980. DESPITE AN INCREASE IN TERMINATIONS OF 86 PERCENT SINCE 1980, PENDING BANKRUPTCY PETITIONS ROSE TO A RECORD HIGH OF 623,938 IN 1985. THEN THIS REPRESENTS AN INCREASE OF 65 PERCENT OVER 1980.

A STEADY INCREASE IN CRIMINAL FILINGS SINCE 1980 HAS LED TO A RISE IN THE NUMBER OF PERSONS UNDER SUPERVISION BY THE PROBATION SYSTEM. IN FIVE YEARS, THE NUMBER OF PERSONS RECEIVED FOR SUPERVISION HAS INCREASED BY 15 PERCENT. THE NUMBER OF PERSONS UNDER SUPERVISION IN 1981 DECLINED BY EIGHT PERCENT FROM 1980, FROM 63,361 TO 58,494. THE NUMBER, HOWEVER, HAS INCREASED STEADILY SINCE THEN, TO A RECORD HIGH NUMBER OF PERSONS UNDER SUPERVISION OF 67,013 IN 1985. THE NUMBER OF INVESTIGATIVE REPORTS HAS ALSO INCREASED BY 17 PERCENT SINCE 1980.

SALARIES OF JUDGES

MR. CHAIRMAN, OUR REQUEST FOR THIS APPROPRIATION IS BASED ON JUDGESHIP POSITIONS, ANTICIPATED VACANCIES IN NEWLY CREATED POSITIONS, RETIREMENTS, AND THE NUMBER OF JUDGES TAKING SENIOR STATUS. OUR FISCAL YEAR 1987 REQUEST REPRESENTS AN INCREASE OF $2,787,000 OVER 1986. THIS INCREASE INCLUDES $1,710,000 IN APPROPRIATION BASE RESTORATIONS.

WE ESTIMATE THAT IN FISCAL YEAR 1987 THERE WILL BE AN AVERAGE OF 20 JUDGESHIP VACANCIES. IN ADDITION, PROVISION HAS BEEN MADE FOR AN AVERAGE NET INCREASE OF 6 JUDGES IN SENIOR STATUS IN FISCAL YEAR 1987. ONE HUNDRED AND SEVENTEEN JUDGES WILL BE ELIGIBLE TO TAKE SENIOR STATUS.

ON JANUARY 1, 1986, THE LAW WHICH EXEMPTED SENIOR JUDGES FROM PAYING SOCIAL SECURITY TAXES EXPIRED. AS A RESULT, RETIRED JUDGES WHO CONTINUE TO HEAR AND DECIDE CASES ARE NOW REQUIRED TO PAY A TAX FOR PERFORMING THIS SERVICE. A NUMBER OF SENIOR JUDGES HAVE DECIDED THAT THEY SHOULD NOT BE TAXED FOR WORKING. THE LOSS OF THEIR SERVICES COULD HAVE A SERIOUS IMPACT ON THE ABILITY OF THE COURTS TO HANDLE THE PRESENT CASELOAD. H.R. 4111 HAS BEEN INTRODUCED TO REMEDY THIS SITUATION. HOPEFULLY, THIS BILL WILL BE PASSED SOON AND WE WILL NOT LOSE THE VALUABLE CONTRIBUTION OF THESE SENIOR JUDGES.

SALARIES OF SUPPORTING PERSONNEL

THIS APPROPRIATION REQUEST SEEKS FUNDS TO PAY CLERKS, DEPUTIES, PROBATION AND PRETRIAL OFFICERS, AND MAGISTRATES. THE 1987 REQUEST FOR $534,300,000 IS AN INCREASE OF $78,621,000 OVER 1986. IT INCLUDES $37,469,000 FOR APPROPRIATION BASE RESTORATIONS, AND 1,403 ADDITIONAL SUPPORTING PERSONNEL FOR THE COURTS OF APPEALS AND DISTRICT COURTS. A SUMMARY OF THESE ADDITIONAL POSITIONS IS CONTAINED ON PAGE 6.3 OF OUR BUDGET JUSTIFICATIONS.

A TOTAL OF 689 POSITIONS ARE REQUIRED JUST TO HANDLE THE INCREASED WORKLOAD IN CIRCUIT AND DISTRICT COURT CLERKS' OFFICES. FOUR HUNDRED AND NINETY-ONE ADDITIONAL POSITIONS ARE NECESSARY TO PERFORM PROBATION AND PRETRIAL SERVICES. THE NEED FOR THESE ADDED PERSONNEL IS BASED ON THE APPLICATION OF APPROVED STAFFING FORMULAS TO PROJECTED WORKLOAD.

DEPUTY CLERKS

BASED ON A PROJECTED FOUR PERCENT INCREASE IN CIVIL AND CRIMINAL CASE FILINGS IN 1987, THE MOST RECENT WORK MEASUREMENT STUDY OF THE DISTRICT COURT CLERKS' OFFICES RESULTS IN OUR REQUEST FOR AN ADDITIONAL 157 DEPUTY CLERK POSITIONS FOR THE DISTRICT COURTS. CIVIL FILINGS HAVE GROWN SEVEN PERCENT IN 1985 OVER 1984 AND 63 PERCENT SINCE 1980. ACTIONS TO RECOVER

OVERPAYMENTS AND SOCIAL SECURITY CASES HAVE ACCOUNTED FOR MUCH OF THE GROWTH IN OVERALL CIVIL CASELOAD DURING THE PAST FEW YEARS. THE RECOVERY OF OVERPAYMENTS CASES ARE EXPECTED TO LEVEL OFF AT ABOUT 60,000 PER YEAR THROUGH AT LEAST FISCAL YEAR 1987. SOCIAL SECURITY CASES, WHICH MORE THAN DOUBLED FROM 1982 TO 1984, DECLINED TO 20,104 CASES IN 1985, AND ARE EXPECTED TO LEVEL OFF AT 20,000 CASES IN 1987. ALL OTHER CIVIL FILINGS ARE EXPECTED TO INCREASE SIGNIFICANTLY IN 1987 BASED ON HISTORICAL TRENDS IN THIS CATEGORY.

AN ADDITIONAL 13 PRO SE LAW CLERKS AND CLERICAL SUPPORT POSITIONS ARE REQUESTED FOR FISCAL YEAR 1987. THESE 13 POSITIONS WERE PART OF OUR FISCAL YEAR 1986 BUDGET REQUEST. THE COURT ADMINISTRATION COMMITTEE OF THE JUDICIAL CONFERENCE HAS ASSESSED THE PRO SE LAW CLERK PROGRAM AND FOUND IT IS FULLY JUSTIFIED IN THOSE COURTS WHICH MUST PROCESS LARGE NUMBERS OF PRISONER PETITIONS. THE 13 POSITIONS ARE REQUESTED FOR QUALIFYING COURTS WHICH DO NOT NOW HAVE PRO SE LAW CLERK OR CLERICAL ASSISTANT POSITIONS.

35 SYSTEMS ADMINISTRATOR POSITIONS ARE REQUESTED FOR FISCAL YEAR 1987. WHILE 20 POSITIONS WERE APPROVED IN FISCAL YEAR 1986, 20 POSITIONS WERE REQUESTED BUT NOT APPROVED. THE FIVE-YEAR PLAN FOR THE AUTOMATION OF THE FEDERAL COURTS NOW CALLS FOR THE ACCELERATED IMPLEMENTATION OF AUTOMATION WITH 20 COURTS TO RECEIVE EQUIPMENT IN FISCAL YEAR 1986 AND AN ADDITIONAL 17 COURTS

communications, supplies, equipment, and miscellaneous expenses.

Administration of the Court Security program is provided by the Marshals Service. With the program approaching a level of full implementation over the next two years, and expanded somewhat by the recent establishment of 85 new judgeships, requirements for administrative support have necessarily increased as well. The request will establish a Judicial Security Branch at the United States Marshals Service headquarters, incorporating all support positions. In fiscal year 1986, 15 positions were authorized to the Judiciary as part of the program. For fiscal year 1987, four additional positions are requested. The following table summarizes the elements of the added costs in fiscal year 1987 over the 1986 adjusted appropriation base.

Fiscal Year 1987 Court Security Budget Request
($000)

	Fiscal Year 1986			Increase Over 1986			Fiscal Year 1987		
Cost Elements	Work Years	Positions	Cost	Work Years	Positions	Cost	Work Years	Positions	Cost
Contract Guards	888	888	$25,712	--	--	$ --	888	888	$25,712
Turnover	--	--	34	--	--	--	--	--	34
Space			559	--	--	--	--	--	559
Inflation			--			1,286			1,286
Total Base Guard Costs	888	888	26,305	--	--	1,286	888	888	27,591
New Guard	--	--	--	136	226	3,909	136	226	3,909
Turnover	--	--	--	--	--	98	--	--	98
Space	--	--	--	--	--	90	--	--	90
Nonrecurring	--	--	--	--	--	993	--	--	993
Total Cost 1st Year				136	226	5,090	136	226	5,090
Equipment	--	--	5,424	--	--	+496	--	--	5,920
Inflation	--	--	--	--	--	+216	--	--	216
Total Equipment	--	--	5,424	--	--	+712	--	--	6,136
Admin. Support	15	15	749	4	4	384	19	19	1,133
Nonrecurring	--	--	272	--	--	-272	--	--	--
Budget Authority	903	903	$32,750	140	230	$+7,200	1,043	1,133	$39,950

TO RECEIVE EQUIPMENT IN FISCAL YEAR 1987. VIRTUALLY ALL OF THESE COURTS ARE EXPECTED TO NEED A SYSTEMS ADMINISTRATOR POSITION TO MAINTAIN THE EQUIPMENT AND COORDINATE IMPLEMENTATION OF THE VARIOUS AUTOMATED PROGRAMS WHICH ARE BEING PROVIDED TO THE COURTS.

SIXTY-SIX POSITIONS ARE REQUESTED FOR THE COURTS OF APPEALS CLERKS' OFFICES BASED ON THE PROJECTED GROWTH IN FILINGS, FROM 36,500 IN 1986 TO 39,500 IN 1987. THE RATIO APPROVED BY THE JUDICIAL CONFERENCE AND USED AS A GUIDELINE SINCE 1973 IS A RATIO OF 75 APPELLATE FILINGS PER DEPUTY CLERK. IN PRIOR YEARS, SOME APPELLATE CLERKS' OFFICES HAVE BEEN ABLE TO FUNCTION AT STAFFING LEVELS LESS THAN THE 75/1 RATIO WOULD HAVE JUSTIFIED. HOWEVER, THE MANPOWER NEEDS OF OPERATING NEW MANNED DIVISIONAL OFFICES IN SEVERAL OF THE CIRCUITS AND THE ADDITIONAL DEMANDS OF AUTOMATION WILL REQUIRE THE FULL STAFFING FORMULA COMPLEMENTS.

FOR FISCAL YEAR 1987, AN ADDITIONAL 5 POSITIONS ARE REQUESTED FOR THE BANKRUPTCY APPELLATE PANEL IN THE NINTH CIRCUIT. THIS CIRCUIT, THE ONLY ONE TO ESTABLISH A BANKRUPTCY APPELLATE PANEL, PURSUANT TO 28 U.S.C. 158(B), RECENTLY REVISED ITS RULES TO PROVIDE FOR AUTOMATIC REFERRAL OF APPEALS FROM BANKRUPTCY JUDGES' DECISIONS TO THE BANKRUPTCY APPELLATE PANEL. IT IS EXPECTED THAT THE NUMBER OF APPEALS HANDLED BY THE PANEL WILL INCREASE TO ABOUT 600 PER YEAR.

AN ADDITIONAL 466 POSITIONS ARE REQUESTED FOR BANKRUPTCY CLERKS' OFFICES BASED ON THE PROJECTED GROWTH IN PETITIONS AND THE REVISED WORK MEASUREMENT FORMULA WHICH WAS APPROVED BY THE JUDICIAL CONFERENCE AT ITS MARCH 1985 SESSION. IN FISCAL YEAR 1985, BANKRUPTCY FILINGS TOTALED 383,497, AN INCREASE OF 10.7 PERCENT OVER THE 346,500 PETITIONS FILED IN FISCAL YEAR 1984. PETITIONS FILED ARE EXPECTED TO INCREASE TO 440,000 IN 1986 AND 485,000 IN 1987.

PROBATION SERVICE

OUR REQUEST INCLUDES 491 ADDITIONAL PROBATION SERVICE POSITIONS: 288 OF THESE POSITIONS ARE DESIGNATED TO PERFORM PROBATION SERVICES. PERSONS UNDER SUPERVISION BY PROBATION OFFICERS ARE EXPECTED TO INCREASE THREE PERCENT IN 1987. INVESTIGATIVE REPORTS INCREASED 17 PERCENT FROM 111,660 IN FISCAL YEAR 1980 TO 130,838 IN 1985. THE NUMBER OF INVESTIGATIVE REPORTS IS EXPECTED TO INCREASE SLIGHTLY IN 1986 AND REMAIN AT THAT LEVEL IN 1987.

PRETRIAL SERVICES

THE ADDITIONAL 203 POSITIONS REQUESTED ARE TO PROVIDE FOR PRETRIAL SERVICES IN PROBATION OFFICES. THESE ADDITIONAL POSITIONS ARE BASED ON A RECENT WORK MEASUREMENT STUDY. THIRTEEN DISTRICTS WERE SELECTED FOR THIS STUDY, FOUR INDEPENDENT PRETRIAL

SERVICES OFFICES AND NINE PROBATION OFFICES PERFORMING PRETRIAL WORK. THE NEW WORK MEASUREMENT FORMULA WAS APPROVED BY THE JUDICIAL CONFERENCE AT ITS MARCH 1985 MEETING.

MR. CHAIRMAN, THE JUDICIARY CURRENTLY HAS 184 POSITIONS AVAILABLE TO PROVIDE FOR PRETRIAL SERVICES IN SEPARATE OFFICES. THIS NUMBER INCLUDES 75 POSITIONS (50 OFFICERS AND 25 CLERKS) AUTHORIZED IN FISCAL YEAR 1986 AND EARMARKED SPECIFICALLY FOR ASSIGNMENT TO SEPARATE PRETRIAL OFFICES IN DISTRICTS WITH SIX OR MORE JUDGESHIPS. AS REQUESTED BY THE CONFERENCE COMMITTEE, A REPORT DETAILING THE ASSIGNMENT OF THESE POSITIONS WILL BE SUBMITTED BY THE ADMINISTRATIVE OFFICE BY DECEMBER 1, 1986.

TO DATE, NINE JUDICIAL DISTRICTS HAVE ESTABLISHED PRETRIAL SERVICES ORGANIZATIONS SEPARATE FROM PROBATION. BASED ON THE PROJECTED WORKLOAD AND APPLICATION OF THE WORK MEASUREMENT FORMULA, IT IS ESTIMATED THAT 127 POSITIONS WILL BE REQUIRED TO ADEQUATELY STAFF THESE OFFICES. THIS IS 57 POSITIONS LESS THAN CURRENTLY AUTHORIZED. DURING FISCAL YEARS 1986 AND 1987 THE JUDICIARY ANTICIPATES THE CREATION OF ADDITIONAL INDEPENDENT PRETRIAL OFFICES IN LARGE METROPOLITAN DISTRICTS WHERE THE PERFORMANCE OF PRETRIAL SERVICES IS PRESENTLY A FUNCTION OF THE PROBATION OFFICE. THE POSITIONS ASSIGNED TO EACH OF THESE NEW OFFICES WILL BE MADE AVAILABLE FROM THE UNALLOCATED RESERVE OF 57.

MAGISTRATES

OUR REQUEST INCLUDES 7 ADDITIONAL FULL-TIME MAGISTRATES AND SUPPORTING STAFF AND 11 ADDITIONAL LEGAL ASSISTANTS. THE JUDICIAL CONFERENCE HAS TAKEN A DELIBERATELY CONSERVATIVE POSITION IN AUTHORIZING THE REQUEST FOR ADDITIONAL FULL-TIME MAGISTRATES, LIMITING SUCH AUTHORIZATIONS TO THOSE COURTS IN WHICH THE WORKLOAD AND OTHER FACTORS CREATE A COMPELLING NEED FOR ADDITIONAL RESOURCES. MOREOVER, THE SUCCESSFUL USE OF MAGISTRATES TO RELIEVE CASELOAD PRESSURES IN THE DISTRICT COURTS HAS BEEN RECOGNIZED AND IS CONTINUING TO EXPAND THROUGHOUT THE COUNTRY.

NATIONAL COURT LIBRARY SYSTEM

THE EXPANSION OF THE NATIONAL COURT LIBRARY SYSTEM CONTINUES, CONSISTENT WITH THE RECOMMENDATIONS OF YOUR COMMITTEE. IN FISCAL YEAR 1987, THE NATIONAL COURT LIBRARY SYSTEM WILL HAVE COMPLETED SIX YEARS OF OPERATION. WE EXPECT TO COMPLETE THE STAFFING OF THIS SYSTEM BY 1990 WITH NEARLY EQUAL INCREMENTS OF PERSONNEL EACH YEAR. THE AIMS OF THIS PROGRAM ARE TO IMPROVE THE LEVEL OF SERVICE TO JUDGES AND MINIMIZE INCREASES REQUIRED FOR LIBRARY ACCESSION AND CONTINUATION MATERIAL THROUGH BETTER MANAGEMENT. THE REQUEST OF 20 POSITIONS FOR 1987 IS ONE GREATER THAN THE 1986 REQUEST WHICH WAS DENIED BY THE CONGRESS.

DEFENDER SERVICES

OUR REQUEST FOR FISCAL YEAR 1987 IN THIS APPROPRIATION REPRESENTS AN INCREASE OF $15,642,000 OVER 1986 AND INCLUDES $9,812,000 IN APPROPRIATION BASE RESTORATIONS. THIS "NO YEAR" APPROPRIATION IS SUBJECT TO LITTLE CONTROL SINCE OUR REQUIREMENTS ARE BASED ON THE NUMBER OF PERSONS WHO MUST BE REPRESENTED UNDER THE CRIMINAL JUSTICE ACT. REPRESENTATION UNDER THE ACT CONTINUES TO INCREASE MAINLY DUE TO INCREASES IN CRIMINAL FILINGS. THE INCREASINGLY COMPLEX NATURE OF THE CASES IN SUCH AREAS AS FRAUD, EMBEZZLEMENT, AND HIGH TECHNOLOGY ALSO CONTRIBUTES TO INCREASES IN THE AVERAGE CASE COST.

IF WE EXCLUDE THE APPROPRIATION BASE RESTORATIONS OF $9,812,000, THE INCREASE OVER 1985 AMOUNTS TO $5,830,000. THIS INCLUDES $2,529,000 FOR FEDERAL PUBLIC AND COMMUNITY DEFENDER ORGANIZATIONS, $3,201,000 FOR PRIVATE PANEL ATTORNEY COMPENSATION, AND $100,000 FOR TRANSCRIPTS. A PART OF THE INCREASE IN FUNDING IS BASED ON THE ADDITION OF 15 DEFENDER POSITIONS TO HANDLE A PROJECTED INCREASE IN CRIMINAL JUSTICE ACT CASELOAD.

FEES OF JURORS AND COMMISSIONERS

WE ARE REQUESTING AN INCREASE IN BUDGET AUTHORITY OF $2,866,000 IN THIS APPROPRIATION OVER THE AMOUNT AVAILABLE IN

1986, OF WHICH $1,866,000 IS REQUIRED TO RESTORE THE APPROPRIATION BASE. THIS IS BASED ON PROJECTED FUNDING INCREASES OF 3.5 PERCENT IN PETIT JUROR ACTIVITY IN 1987 AND A 2.5 PERCENT INCREASE IN THE MILEAGE ALLOWANCE RATE. THE FIRST-DAY JUROR UTILIZATION RATE CONTINUED TO IMPROVE IN 1985 OVER 1984 WITH THE INDEX OF UNUTILIZED JURORS DROPPING FROM 36.5 PERCENT TO 34.3 PERCENT WHICH REPRESENTS AN IMPROVEMENT IN JUROR UTILIZATION OF SIX PERCENT.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

OUR REQUEST FOR FISCAL YEAR 1987 IN THIS APPROPRIATION REPRESENTS AN INCREASE OF $31,305,000 OVER 1986. THIS INCREASE INCLUDES $8,630,000 TO RESTORE REDUCTIONS IN THE APPROPRIATION BASE. PROGRAM INCREASES AMOUNT TO $21,528,000. OF THIS AMOUNT, $6,248,000 REPRESENTS EXPENSES RELATING TO NEW PERSONNEL, $2,000,000 REPRESENTS AN INCREASE IN THE PROGRAM FOR SERVICES FOR DRUG DEPENDENT OFFENDERS, $8,625,000 IS FOR EXPANSION OF THE COURT AUTOMATION PROGRAM, $3,405,000 IS FOR FURNITURE AND FURNISHINGS REQUIRED INCIDENT TO PROSPECTIVE PROJECTS, $700,000 IS FOR THE INCREASED USE OF INTERPRETERS, AND $550,000 IS FOR THE INCREASE IN NUMBER OF DEFENDANTS ELIGIBLE FOR SOCIAL SERVICES AS A RESULT OF PASSAGE OF THE PRETRIAL SERVICES ACT OF 1982.

THE JUDICIARY MUST MODERNIZE THE WAY IN WHICH IT DOES BUSINESS IF IT IS TO COPE WITH INCREASING CASELOAD. WE NEED FULL

SERVICE AUTOMATED SUPPORT IN SUCH AREAS AS: ELECTRONIC DOCKETING, NOTICING, INDEXING, ADMINISTRATIVE SUPPORT, AND CASE, JURY, AND FINANCIAL MANAGEMENT. THE INCREASE REQUESTED IN 1987 IS FOR FOUR PROJECTS: (1) DISTRICT COURT AUTOMATION PROJECT ($3,411,000); (2) APPELLATE INFORMATION MANAGEMENT SYSTEM ($737,000); (3) COMPUTER-ASSISTED LEGAL RESEARCH ($480,000); AND, (4) BANKRUPTCY COURT AUTOMATION PROJECT ($3,697,000). IN ADDITION, $300,000 IS REQUESTED FOR ORIENTATION EXPENSES RELATED TO OFFICE AUTOMATION. DETAILS OF THE AUTOMATION PROGRAM ARE CONTAINED IN THE FIVE-YEAR PLAN FOR AUTOMATION IN THE UNITED STATES COURTS AND ON PAGES 9.15 AND 9.19 OF OUR BUDGET JUSTIFICATION.

SPACE AND FACILITIES

THE BUDGET ESTIMATE FOR 1987 IS $182,200,000, WHICH REPRESENTS AN INCREASE OF $41,521,000 OVER THE AMOUNT APPROPRIATED FOR 1986. THIS INCREASE INCLUDES $10,231,000 FOR APPROPRIATION BASE RESTORATIONS. EXCLUDING THE ADJUSTMENTS FOR UNCONTROLLABLE CHANGES, WE ARE REQUESTING AN INCREASE OF $2,760,000 FOR SPACE RENTAL CHARGES INCIDENT TO OCCUPANCY OF EXPANDED OR REMODELED FACILITIES AND $921,000 IS RELATED TO SPACE COSTS FOR NEW SENIOR JUDGES AND MAGISTRATES. AT THE SUGGESTION OF YOUR COMMITTEE, WE ARE NOT REQUESTING FUNDS FOR ANY NEW POSITIONS, OTHER THAN JUDICIAL OFFICERS.

MR. CHAIRMAN, AS YOU KNOW, WE HAVE FELT FOR SOME TIME THAT THE STANDARD LEVEL USER CHARGES (SLUC) OF GSA ARE EXCESSIVE. AS A RESULT OF YOUR COMMITTEE'S INITIATIVE, THE SLUC RATE INCREASE FOR 1984 WAS LIMITED TO 7 PERCENT. IN 1985, YOUR COMMITTEE WAS ALSO RESPONSIBLE FOR LIMITING THE INCREASE TO 7 PERCENT ON GOVERNMENT-OWNED BUILDINGS. IN 1986, THE OFFICE OF MANAGEMENT AND BUDGET DIRECTED THE GENERAL SERVICES ADMINISTRATION TO CHARGE THE SAME SLUC RATES PER SQUARE FOOT AS IN 1985. BASED ON THE PROJECTED BILLING DOCUMENT RECEIVED FROM GSA, THE JUDICIARY'S RENTAL COSTS IN FISCAL YEAR 1987 FOR SPACE CURRENTLY OCCUPIED WILL INCREASE BY ALMOST 20 PERCENT, OR $26,705,000. AGAIN WE SUBMIT THAT THIS IS AN EXCESSIVE INCREASE IN RENTAL COSTS. IT APPEARS THAT GSA IS ATTEMPTING TO RECOUP SOME OF THE INCREASES DENIED OVER THE LAST FOUR YEARS. WE REQUEST YOUR CONTINUED CAREFUL ANALYSIS OF THE VALIDITY OF THESE INCREASES.

COURT SECURITY

IN FISCAL YEAR 1987, A TOTAL OF $39,950,000 IS REQUESTED FOR THE COURT SECURITY APPROPRIATION. THE INCREASED AMOUNT OVER 1986 IS $8,608,000 AND INCLUDES $1,408,000 IN APPROPRIATION BASE RESTORATIONS. BY THE CLOSE OF 1986, WE WILL HAVE 888 COURT SECURITY OFFICERS ON DUTY. THE COURT SECURITY COMMITTEES REQUESTED A TOTAL OF 1,341 COURT SECURITY OFFICERS TO IMPLEMENT THEIR CURRENT SECURITY PLANS, OR AN ADDITIONAL 453 OFFICERS ABOVE THE NUMBER AUTHORIZED IN FISCAL YEAR 1986. THESE ADDITIONAL

SECURITY OFFICER POSITIONS WILL BE PHASED IN DURING FISCAL YEARS 1987 AND 1988. ACCORDINGLY, THIS REQUEST WILL PROVIDE FOR AN ADDITIONAL 226 COURT SECURITY OFFICERS, WHICH REPRESENTS AN INCREASE OF APPROXIMATELY 50 PERCENT OF THE TOTAL NUMBER OF COURT SECURITY OFFICERS REQUESTED. THE ADDITIONAL 226 COURT SECURITY OFFICERS REQUESTED FOR FISCAL YEAR 1987 ARE NEEDED TO PROVIDE COVERAGE TO THOSE DISTRICTS CURRENTLY WITHOUT COURT SECURITY OFFICERS AND TO ENHANCE THE LEVEL OF SAFETY OF FEDERAL JUDGES AND MAGISTRATES, EMPLOYEES, JURORS, WITNESSES, SPECTATORS, AND OTHER TRIAL PARTICIPANTS IN JUDICIAL FACILITIES THAT ARE STAFFED WITH LESS THAN THE MINIMUM NUMBER OF COURT SECURITY OFFICERS AS DETERMINED BY THE RESPECTIVE COURT SECURITY COMMITTEES.

OUR COURT SECURITY REQUEST ALSO INCLUDES FUNDS FOR SECURITY EQUIPMENT ($496,000) AND FOUR ADDITIONAL POSITIONS TO PROVIDE FOR THE ADMINISTRATION OF THE COURT SECURITY PROGRAM. THESE POSITIONS WILL BE ASSIGNED TO THE UNITED STATES MARSHALS SERVICE.

IN CONCLUSION MR. CHAIRMAN, SINCE THIS COMMITTEE CAN NEITHER REDUCE THE RANGE OF JURISDICTION CONFERRED ON UNITED STATES COURTS NOR HALT THE ENACTMENT OF LEGISLATION ADDING TO THAT JURISDICTION, WE MUST ASK YOU TO BUDGET FOR AN EXPANDING SYSTEM IN A TIME OF DEFICIT REDUCTION. WE APPRECIATE THE DILEMMA THIS CREATES. WE CAN ONLY ASSURE YOU THAT, CONSISTENT WITH THE NEED TO KEEP FEDERAL EXPENDITURES TO A MINIMUM, OUR BUDGET ESTIMATES FOR FISCAL YEAR 1987 PROVIDE ONLY FOR INCREASES DIRECTLY RELATED

TO GROWTH IN WORKLOAD AND NEW LEGISLATION. ON BEHALF OF THE BUDGET COMMITTEE OF THE JUDICIAL CONFERENCE, WE THANK THE COMMITTEE FOR ITS CONSIDERATE RESPONSES IN THE PAST AND WE LOOK FORWARD TO WORKING WITH YOU ON OUR FISCAL NEEDS FOR FISCAL YEAR 1987.

Attachment 1

COMPARATIVE WORKLOAD DATA
FISCAL YEARS 1980 AND 1985

	F.Y. 1980	F.Y. 1985	% Change
COURTS OF APPEALS:			
Filings	23,204	33,506	+ 44
Terminations	21,943	32,403	+ 48
Pending, End of Year	21,054	24,925	+ 18
DISTRICT COURTS:			
Civil Cases			
Filed	171,346	278,681	+ 63
Terminated	164,359	272,356	+ 66
Pending, End of Year	190,671	257,425	+ 35
Criminal Cases			
Filed	29,387	39,720	+ 35
Terminated	28,606	38,190	+ 34
Pending, End of Year	14,778	22,396	+ 52
Totals			
Filed	200,733	318,401	+ 59
Terminated	192,965	310,546	+ 61
Pending, End of Year	205,449	279,821	+ 36
BANKRUPTCY PETITIONS:			
Filed	300,180	383,510	+ 28
Terminated	188,977	351,651	+ 86
Pending, End of Year	377,273	623,938	+ 65
MAGISTRATES:			
Criminal Trial Jurisdiction Cases	90,402*	90,757*	+ 1
Civil Trail Jurisdiction Cases	597*	3,717*	+523
Preliminary Felony Proceedings	87,031*	120,143*	+ 38
Other Criminal and Civil Matters	104,414*	206,990*	+ 98
PROBATION:			
Persons Received for Supervision	30,870	35,458	+ 15
Persons Under Supervision, End of Year	63,361	67,013	+ 6
Presentence Investigations	23,702	33,449	+ 41
Other Investigations	87,958	97,389	+ 11
Petitions for Naturalization	150,646*	279,781*	+ 86
Aliens Naturalized	133,721*	236,099*	+ 77

*Data for the year ended June 30.

Attachment 2

Appropriation Base Restorations
(dollar amounts in thousands)

Appropriation	Sequestration (P.L. 99-177)	Unobligated Balances	Conference Committee	Total
Salaries of Judges..................	$ 787	$ 923	$	$ 1,710
Salaries of Supporting Personnel...	20,421	14,698	2,350	37,469
Defender Services..................	2,657	4,955	2,200	9,812
Fees of Jurors and Commissioners...	1,866	.....	.....	1,866
Expenses of Operation and Maintenance of the Courts........	5,805	.....	2,825	8,630
Space and Facilities...............	6,321	910	3,000	10,231
Court Security.....................	1,408	.....	.....	1,408
Total........................	$39,265	$21,486	$10,375	$71,126

Judge **Clark**. With that, I would like to introduce a man who needs no introduction obviously, Judge William L. Hungate, a judge of the Eastern District of Missouri. Also for the first time appearing this morning is Mr. L. Ralph Mecham, the new Director of the Administrative Office.

Mr. Chairman, we have, in going over the items in the budget yesterday, discovered that there is going to be a delay in the time when the Federal Judicial Center will be able to transfer an automation program known as BANCAP to the Administrative Office.

Because of this delay, we now think that they will not be ready to make the transfer of this program until late in fiscal year 1987. We are, therefore, this morning conceding the sum of $3 million from the appropriation for Expenses of Operation and Maintenance of the Courts that we had included to support this item during fiscal year 1987.

Except for that, Mr. Chairman, there are no additions to the statement, and Judge Hungate, Mr. Mecham and I will be glad to answer any questions that the Committee might have for us.

IMPACT OF SEQUESTRATION

Mr. **Smith**. Well, how are you going to handle this sequestration? Were my figures right? $42,114,000.

Judge **Clark**. That is not quite right for our particular appropriations. This is the sequestration that applies to the entire judiciary. The amounts that we are interested in are slightly less than that.

Mr. **Smith**. $39,265,000?

Judge **Clark**. $39,265,000, that is correct, sir.

Mr. **Smith**. Now, how are you going to absorb that?

Judge **Clark**. What we propose at the present time to do is subject to action on Friday of this week by the Executive Committee of the Judicial Conference of the United States, and then, depending upon what the Executive Committee decides, perhaps upon action by the entire Judicial Conference in March at its regular meeting.

The Budget Committee was charged by the Chief Justice with the responsibility of looking at the effect of this sequestration. We immediately saw that it was going to be disasterous if we took a $20 million reduction in Salaries of Supporting Personnel. We already have a number of divisions, particularly in the bankruptcy area that are severely in trouble with regard to personnel needs right now.

So our strongest recommendation to the Executive Committee and then to the Judicial Conference if necesary is going to be to make some adjustments to stay within the sequestered amount but to take the impact of sequestration within different accounts.

REPROGRAMMING REQUEST

Mr. **Smith**. Does that require reprogramming?

Judge **Clark**. Some of this can be done through reprogramming; some of it is going to require transfer of funds between appropriation accounts. If this is the final plan that the Judicial Conference wishes to implement, then we will come back to the Committee as soon as possible with requests to the Committee for those transfers requiring legislation along with a full explanation of our reprogramming request within appropriation accounts.

Mr. SMITH. That transfer would probably be a part of some supplemental appropriations bill, and I do not know when there will be a supplemental. We may have an urgent supplemental in March, but the next one might not be ready for passage for a couple of months.

What about the timing of it?

Judge CLARK. If necessary we can get the information to you on an estimated basis as soon as there is any indication that there would be a chance to get an early supplemental. We would like to wait. If that supplemental does not materialize, then we would like to wait until the full Conference acts, but if it is necessary, the Budget Committee, with the approval of the Chief Justice, is prepared to go ahead with a recommendation.

Mr. SMITH. My question is what timing for a supplemental would be necesary to transfer these funds?

Judge CLARK. We would have to have the authority to transfer by the end of the fiscal year, perhaps before then.

Let me amend that by saying the transfer of funds should take place as soon as possible. I think that it would be critical in the sense that we would get into a deficiency situation and have to stop certain programs if we do not have final action soon.

SUPPLEMENTALS AND TRANSFERS

Mr. SMITH. You say we are talking about fiscal 1986 money now, are we not?

Judge CLARK. Yes. That is right. It would have to be sooner than that.

We do have two supplementals that we are requesting for the 1986 fiscal year.

Mr. SMITH. Actually it would probably come in the principal supplemental we will have.

Judge CLARK. Yes, and those have been requested in the opening statement.

Mr. SMITH. Last year it turned out to be August before a supplemental was enacted. I am just guessing now though, that it would still be the end of July before a supplemental passed.

Judge CLARK. Jurors are a supplemental that we have requested, and, as you know, Mr. Chairman, this is an appropriation that we have no control over. When the call comes for jurors, we have to bring them in. The only option we have would be in civil cases to simply deny the right of a jury trial and let those cases wait. If the parties insist on maintaining the jury, let those cases wait. But we think that it will probably be the first of June before we are in that financial pickle.

That is the basis of our request for a supplemental. In the transfers, the transfers that we anticipate would be to take some of the money out of Salaries of Judges and put it into the Defender Services appropriation, take some of the money out of Operation and Maintenance and put it into Salaries of Supporting Personnel.

The difficulty is that we have considered a whole range of options, and we are presenting to the Executive Committee a whole range of options so that fixing the exact dollar amount of those transfers is our difficulty today before you.

We will get that information as soon as possible and get it to you.

Mr. **Smith**. If that is done for 1986, if those transfers are made, what does that do to your 1987 budget?

Judge **Clark**. Well, now, in the preparation of the budget and the presentation we have made in the opening statement, we have counted on the granting of the supplementals.

Mr. **Smith**. What about the transfers?

Judge **Clark**. The transfers will not affect our '87 budget. We have asked for restoration of these funds, but that is the only way it would be affected.

RESTORATION OF PRIOR YEAR REDUCTIONS

Mr. **Smith**. You have also asked for restoration of reductions that were made in the 1986 bill was passed.

Judge **Clark**. On the basis that we are in the same sort of a situation that the Committee is. There is no way that we can clearly know or intelligently plan for our business in the present climate.

We do not know what sort of—we have planned for the 1986 sequestration, and this is the matter we have been discussing now. But, of course, Gramm-Rudman could have a tremendous impact, a much larger impact in '87. We don't know if the President's budget is adopted or if one is adopted by Congress. We do not know what those matters will bring to us in the way of needs for funds and needs for operations.

Our only anchor to the wind in this whole affair is the fact that we know what the requirements of the Judiciary are. We know the number of personnel that it takes to run the courts. We know the equipment that it takes to support those personnel. We know what our filings are, and history tells us how to project those filings.

So our entire 1987 budget has been developed just from that one base. We understand there is no way for you to predict the future any more than for us as far as what budgeting will do, as far as what the impact of Gramm-Rudman in '87 is. So we felt that our only rational approach to bringing our '87 budget to you was to do what we have done; and that is to bring the budget and be prepared to support the various items that we have requested on their merits.

Mr. **Smith**. Well, in enacting the 1986 budget, we made some reductions as a result of some unobligated balances that were carried forward from FY 1985. Now, you have asked for restoration of those.

Judge **Clark**. Yes, sir.

Mr. **Smith**. Why do you need those restored?

Judge **Clark**. Because they are in our base and they are part of the projected needs of the courts.

Mr. **Smith**. Would that result in you having unobligated balances of approximately that amount carried forward the next time, too?

Judge **Clark**. We do not anticipate that. We anticipate the need.

JUDGESHIP VACANCIES

Mr. Chairman, in 1984, we had a brand new judgeship bill. We are just now phasing in, and as you will see, I have got it here for the record if you would like to have it, a list of the judgeship vacancies in the Federal Judiciary.

Mr. SMITH. All right. We will put it in the record.

[The information follows:]

VACANCIES IN THE FEDERAL JUDICIARY

February 21, 1986

Includes new positions created under Public Law 98-353, July 10, 1984
(Courts of Appeals = 24 District Courts = 61)

(* Sec. 202(b): "The first vacancy in each of the offices of district judge authorized by this subsection, occurring five years or more after the effective date of this Act, shall not be filled.")

COURT	VACANCY CREATED BY:			NOMINATED TO FILL:
DC CIRCUIT				
Court of Appeals	Malcolm Wilkey	Ret'd	12-6-84	Stephen F. Williams (2-19-86)
District Court	Barrington Parker	Ret.	12-19-85	
FIRST CIRCUIT				
Court of Appeals	New position			
Massachusetts	W. Arthur Garrity	Ret'd	12-1-85	
Rhode Island	New position			Ronald R. Lagueux (1-26-86)
SECOND CIRCUIT				
Court of Appeals	New position			J. Daniel Mahoney (2-7-86)
New York (W)	New position*			
New York (E)	New position			Raymond J. Dearie (2-3-86)
New York (N)	New position			Thomas J. McAvoy (1-29-86)
New York (N)	Roger J. Miner	Elev'd	8-2-85	Con. G. Cholakis (2-7-86)
New York (S)	Charles E. Stewart	Ret'd	1-2-85	Miriam G. Cederbaum (2-3-86)
New York (S)	Abraham D. Sofaer	Res'd	6-10-85	
New York (S)	Lee P. Gagliardi	Ret.d	7-17-85	
New York (E)	Frank X. Altimari	Elev'd	12-16-85	
THIRD CIRCUIT				
New Jersey	Frederick B. Lacey	Res'd	2-1-86	
Pennsylvania (M)	Malcolm Muir	Ret'd	8-31-84	
Pennsylvania (W)	Barron McCune	Ret'd	4-1-85	
Pennsylvania (W)	Carol Los Mansmann	Elev'd	4-22-85	
Pennsylvania (W)	Hubert I. Teitelbaum	Ret'd	7-2-85	
Pennsylvania (E)	D. W. VanArtsdalen	Ret'd	10-21-85	

FOURTH CIRCUIT

Court of Appeals	Emory Sneeden	Res.	3-1-86	
North Carolina (E)	New position*			
Virginia (E)	John A. MacKenzie	Ret.d	11-30-85	

FIFTH CIRCUIT

Court of Appeals	New position			
Mississippi (S)	New position			Walter J. Gex, III (1-29-86)
Texas (N)	Robert M. Hill	Elev'd	7-20-84	Sidney A. Fitzwater (1-29-86)
Texas (S)	George E. Cire	Dec'd	5-5-85	

SIXTH CIRCUIT

Court of Appeals	New position			Danny J. Boggs (1-29-86)
Kentucky (W)	Charles M. Allen	Ret'd	10-1-85	
Michigan (E)	Charles Joiner	Ret'd	8-15-84	Barbara K. Hackett (2-11-86)
Michigan (E)	New position			
Michigan (E)	Ralph B. Guy, Jr.	Elev'd	(10-16-85)	Lawrence P. Zatkoff (1-26-86)
Michigan (E)	John Feikens	Ret.d	3-1-86	
Ohio (N)	Nicholas Walinski	Ret'd	12-1-85	
Ohio (S)	Robert M. Duncan	Res'd	4-15-85	
Tennessee (E)	Robert L. Taylor	Ret'd	1-15-85	

SEVENTH CIRCUIT

Court of Appeals	Wilbur Pell	Ret'd	7-31-84	Daniel A. Manion (2-21-86)
Court of Appeals	Jesse Eschbach	Ret'd	11-4-85	
Illinois (N)	George N. Leighton	Ret.	2-27-86	
Illinois (N)	Thomas A. McMillen	Ret'd	12-31-84	
Illinois (S)	New position			

EIGHTH CIRCUIT

Court of Appeals	Myron H. Bright	Ret'd	6-1-85	Frank J. Magill (1-26-86)
Iowa (N)	Edward J. McManus	Ret'd	2-9-85	David R. Hansen (2-3-86)
Minnesota	Miles W. Lord	Ret'd	7-1-85	
North Dakota	Paul Benson	Ret.d	12-31-85	

NINTH CIRCUIT

Alaska	New position			
California (C)	Cynthia B. Hall	Elev'd	10-4-84	
California (N)	William H. Orrick	Ret'd	10-31-85	
Hawaii	New position			
Hawaii	Samuel P. King	Ret'd	11-30-84	
Washington (W)	New position			Robert J. Bryan (2-3-86)
Washington (W)	Donald S. Voorhees	To retire upon "appointment and qualification" of successor		

TENTH CIRCUIT

Court of Appeals	William E. Doyle	Ret'd	12-28-84	
Colorado	John P. Moore	Elev'd	5-14-85	
Colorado	New position			
New Mexico	Bobby Ray Baldock	Elev'd	12-16-85	

ELEVENTH CIRCUIT

Court of Appeals	Albert J. Henderson	Ret'd	1-31-86	
Alabama (S)	New position			Jefferson B. Sessions, III (1-29-86)
Florida (M)	John A. Reed	Res'd	12-31-84	
Florida (S)	Joe Eaton	Ret'd	4-2-85	

FEDERAL CIRCUIT

Shiro Kashiwa	Res'd	1-7-86
Marion T. Bennett	Ret.d	3-1-86

INTERNATIONAL TRADE

Nils A. Boe	Ret'd	4-30-84
Morgan Ford	Ret'd	12-31-85

Vacancies in the: Courts of Appeals = 13
District Courts = 49
Court of Int'l Trade = 2

64

Judge CLARK. It shows that there are a total of 64 at the moment, but that number is steadily going down. 17 of these 64 are already nominated, simply awaiting Senate confirmation.

Mr. SMITH. Are they being filled faster than vacancies come up?

Judge CLARK. Yes, sir. We anticipate on the average 20 vacancies based upon our prior experience. So we foresee that these 47 current vacancies that are not yet nominated will quickly go on down to approximately 20.

CASELOAD

Mr. SMITH. Judge Hungate, what have you done to reduce the caseload in Missouri?

Judge HUNGATE. I am meaner now.

[Laughter.].

Judge HUNGATE. I thought that was one of the qualifications. We have a judge in St. Louis, and I asked him, "Why do you hate all the lawyers?" He said, "When I was a lawyer, I hated all the judges."

Some of the things that we have determined, we see we can get our cases settled when they are actually set for trial and they believe they are going to trial, that is when they settle. As you undoubtedly know, about 90 percent of the cases do settle, but they do it on the eve of trial.

If you get your courts overloaded and the lawyer knows that he cannot be tried this week or next month or six months, they just do not settle.

There are areas where we believe the case load could be reduced. I guess all of us do not think that adding judges will always be the answer.

Mr. SMITH. A lot of people do not think it is.

Judge HUNGATE. Diversity gets to be a problem, and I am sure you have heard arguments over diversity, if we did not have diversity, why, we would have considerably less cases. Now, the American Bar will not agree with that, and a lot of other lawyers will not either.

I think Congressman Kastenmeier, from time to time, has proposed a bill and sought to deal with it. That would reduce the caseload, and maybe we would not be trying so many slip-and-fall-at-the-grocery-store cases and rear-end collisions. We get those under diversity.

The jurisdictional amount of $10,000, which has been there, I think, since the '50s, when $10,000 was more than it is now. If that were raised, that too would eliminate some.

Mr. SMITH. Do you get very many between $10,000 and $50,000?

Judge HUNGATE. Oh, yes, a considerable number, Mr. Chairman. We certainly do.

Some people talk about raising it $100,000, but the higher you go, the tougher that would be to reach, I suppose. And they said it was rather dramatic when they raised it from $3,000 to $10,000 in the '50s. It took about three years before the cases built back up because of the nature of civil rights cases and other things of that type where the amount does not matter, and those are new statutes, you would still have that level of those cases.

Then you cannot go to a meeting that they do not talk about ADR, the alternative dispute resolution, where they use arbitrators, summary jury trials, or special masters. The courts are concerned and seeking to do it, and some of it would require legislation.

Mr. SMITH. Do you have vacancies in your area?

Judge HUNGATE. In the courts?

Mr. SMITH. Yes.

Judge HUNGATE. No, sir. We have a full complement of six active judges and four seniors. We are very lucky to have those four seniors, all of whom work. One has been on since 1948.

SOCIAL SECURITY TAXES

Mr. SMITH. Are they continuing on in view of the Social Security problem?

Judge HUNGATE. We are split on that issue, Mr. Chairman. One of them would actually want to pay Social Security. His situation must be different from most people, but he wants to. I have heard him say so.

Some of them threaten not to work, and I do not know how you take that. I find great pleasure in being a Federal judge.

So I do not know whether they would quit, but some would undoubtedly quit.

Mr. SMITH. You found great pleasure in being a member of Congress, too, did you not?

Judge HUNGATE. Oh, I did, yes. Yes, I miss the place. I do not miss running for office, though.

That is the hardest job I ever had, Mr. Chairman.

Mr. SMITH. What impact will it have if legislation passes that waives Social Security payments for senior judges?

Judge CLARK. Mr. Chairman, it would mean that we would be better able to fill the judge power needs of the Federal Courts. There are, nationwide, a number of judges—I am not prepared this morning to give you a percentage; perhaps the director might be—of the total number of senior judges who have declined to serve. I know in my own circuit it is about 35 or 40 percent of the senior judges who have declined to serve.

If those judges go back, we will have less of a caseload. I do not know what the fiscal impact would be.

Mr. SMITH. How many senior judges are serving nationwide on a more or less permanent basis?

Judge CLARK. Do you know, Mr. Mecham?

Mr. MECHAM. Of about 280 senior judges who fill in, we feel there is an equivalent of 85 full-time judges, if you weigh the time. So the effect of half of them not working means we reduce the amount of full functioning judges by half.

Judge HUNGATE. You mentioned the Social Security problem. I have heard Judge Meskillsay, and you know him; he is a former colleague from Connecticut, that on that Court of Appeals they hear these things as a panel. Three judges hear them and then they write the opinion. I do not know if this judge was assigned to write the opinion or else has to rule on it. In the meantime, this Social Security problem came up and they had already heard the appeal and heard the argument. The reaction of the senior judge was, I am doing nothing; I am taking no chances.

What I am saying, I guess an answer one way or the other is probably going to help so we know where we are.

ADDITIONAL BANKRUPTCY JUDGES

Mr. SMITH. What is the state of legislation on bankruptcy judges?

Judge CLARK. It is pending markup in the Senate on Thursday of this week. The House Committee indicates that they are going to act by the end of March.

Mr. SMITH. How many judges are requested?

Judge CLARK. The Judicial Conference requested 48. The Senate bill has considerably less than that. Thirty to 32, I think.

Mr. MECHAM. I do not recall the number in the Senate bill.

Judge CLARK. It is in the thirties in the Senate bill. In the House——

Judge HUNGATE. The Judicial Conference recommended 48. I think the House with Chairman Rodino approved 40 of those, and then they added five that are not in the 48.

Mr. SMITH. How many are authorized now?

Judge CLARK. Two hundred and thirty-two.

Judge HUNGATE. And I understand the Senate bill deals with 30 to 32.

BANKRUPTCY FILINGS

Mr. SMITH. The President was up here for his State of the Union message, and he said everything is wonderful, that the economy is hot. I do not understand why we need more——

Judge HUNGATE. He does not live in Iowa, Mr. Chairman.

Judge CLARK. Or in the Southern District of Texas.

Mr. SMITH. Are bankruptcy cases still increasing?

Judge HUNGATE. Yes, sir.

Judge CLARK. Yes, sir.

Judge HUNGATE. We have one bankruptcy judge on this seven-member budget committee, Kelley of Tennessee. He is heavily worked.

Mr. SMITH. And whenever there is a vacancy—we had one in northern Iowa—it is very difficult to get a senior judge even to take your place, is there?

Judge CLARK. We do find some but not many.

Right now, for instance, I am more familiar with southern Texas because it is in the Fifth Circuit, but we have a retired bankruptcy judge from the state of New York who is traveling each week to Houston, Texas, to conduct bankruptcy court there.

We have also had over the period of time, I think, 15 different assignments of active bankruptcy judges from other areas within the Fifth Circuit to serve that need.

Judge HUNGATE. And according to Judge Kelley, in Chattanooga the situation is such that they pay the filing fee in installments; they are that bad off in his area. I think it is a $60 filing fee.

Mr. SMITH. Mr. Early.

CASE REVIEW

Mr. **Early**. What is the present time for case review in the court?

Judge **Clark**. It varies widely. The average time on appeal in the Fifth Circuit is nine months. This is from the date of the notice of filing until the court's opinion. Approximately four of those months are taken up with the production of the transcript and the production of the lawyers' briefs.

Mr. **Early**. So you really cannot get around that. What about the other five months?

Judge **Clark**. The other five would be the average time that the court takes to reach and rule on the case. Less than half of our cases are orally argued, those that are not are put on a fast track. They are decided on the transcript and on the lawyers' briefs alone.

In those cases, we have a disposition time of around 40 days from the time that appeal is ready for ruling until the time that the opinion of the court comes out.

When the case has to be scheduled for argument, you lose about another 50 to 60 days by the time you notify the lawyers that the argument session will be held and the time the judges are scheduled to hear their argument and it is actually heard. You then have a period of approximately two to three months after that the judges——

Mr. **Early**. What has the trend been over the last couple of years? Overall has it been quicker or has it been slower?

Judge **Clark**. It has been a little bit quicker, nationwide, in the Courts of Appeals. We have become a little bit more efficient in the way we have handled things.

A number of circuits have been very heavily impacted by increases in filings. They have gone to the system that the Fifth Circuit has used for quite some time of having summary dispositions, dispositions without argument.

SCHEDULING OF CASES

Mr. **Early**. What kind of time frame are we talking about here?

Judge **Clark**. Say that again, sir?

Mr. **Early**. What is the delay time that is due to backlog, or is there any?

Judge **Clark**. It varies from circuit to circuit.

Mr. **Early**. What would it be in your circuit?

Judge **Clark**. We have no backlog because the cases are scheduled for hearing as soon as they are ready, as soon as the briefs and the record are filed. The only time that we ever carry a case is when we are waiting for decisions in the Supreme Court or we have a question that is certified to a State Supreme Court for decision. But in the circuits that do have those delays, there is some variation. I do not know what it is.

Judge **Hungate**. If I might address the district court level, we have the Speedy Trial Act, as you know.

Mr. **Early**. We have the Act; but I do not know if we have the speedy trial.

Judge HUNGATE. Well, we try to speed it where we are, and that makes for an interesting problem in your docket because you cannot go—it is a 70-day period. You have to try the criminal cases 70 days from the time they are indicted. But if you send them in the first 30 days, that is railroading; that is too quick. So in the 30 days, you cannot, hardly ever, get them done in that time. It is unfair to the defendant; it probably is.

Then you have a 40-day window. So when the judge administers the docket at the trial level and sets your case down the road six months from now or whenever, he has to always be subject to the fact that he may have a criminal case come in that occurs during that 40-day window, and he must set your civil case back while he tries that criminal case.

Three-and-a-half months, they say, is about the average nationally on criminal cases. On civil cases they say seven months, although I personally think it is longer than that. I believe it is in our area, and I think we run one of the quicker courts.

Now, exceptions. You get a school case. You have heard of those, and they go on. We have got one that is 13, 14 years old. Somebody is running a mental institution or a prison; those cases take longer.

Now, bankruptcy. We mentioned that earlier. And I think of the Johns-Manville situation, I suppose I have about 13 cases on my docket stayed in bankruptcy because it has been stayed due to their bankruptcy, they are a defendant in all these cases, and those cases just have to sit there until Johns-Manville bankruptcy is done.

There is a monitoring system that the Administrative Office operates. Every quarter we must file a report, and if we have any motions that have been filed that have not been ruled in 60 days, they go on that list and our name goes on the blackboard for not being current.

If you have heard a case, tried by the court without a jury, where the judge must find the facts and make the conclusions of law, you have 90 days. Anything over 90 days you are on the list for that.

As far as complete trial of a case, that is a three-year period. If you have a case that is over three years old, then you have to explain it. And that is more than you want to know about it, maybe, but that is the way it works.

Mr. EARLY. Can the defendant always speed up the trial if he or she chooses?

Judge HUNGATE. Could a defendant?

Mr. EARLY. Yes, and I did not say "could he," can he always?

Judge HUNGATE. Can he always?

Mr. EARLY. I do not know why he should not be able to.

Judge HUNGATE. Well, when I mentioned that first 30 days, now, there is a certain rigmarole you can go through; normally, that is the guy that wants to plead. If he is going to try it, he wants more time to prepare it.

Now, can he always? I do not know anything that works always, but most of the time he can. You get into this situation with your defenders' offices. We have got one system where you appoint a lawyer and he gets so much an hour. You just raised that pay last year, I think.

We have got another one where we set up a defenders' office. Now, from time to time, we will get them where there are five laywers in that office and they say we are all trying cases. We have got ten judges there. They say we could not try that case, Judge, at that time.

Do you follow what I mean? The lawyer will have a conflict, and that can happen with private lawyers.

Mr. **Early**. One final question. Is there anything that is not in this budget that is going to turn the trend, causing you to get back to a lot of waiting periods or more delay or any of that type of thing, that additional resources would prevent?

Judge **Clark**. Not in our budget proposal, Mr. Early. The difficulty is going to be that if we have to suffer severe reductions in the personnel that are an important part in the processing of cases, then I think we can definitely look for longer processing times. It is just a necessary consequence. We run a unitary system. I mean that there is no program that we can cut off, no activity that we can quit. The last case you get on Friday afternoon may be the most important case that is filed that week. We cannot grade cases when they come in and push them back.

To refer for just one second to a question that you and Judge Hungate were discussing, there is never a time that a defendant cannot insist on every single time interval that is given to him in the Speedy Trial Act, because we get appeals all the time where every time there is the least little slippage by the trial judge, sometimes completely unintentional, even agreed-to extensions, they will sometimes contest on appeal.

PROSECUTORIAL DISCRETION

Mr. **Early**. I think that justice is failing. For example, I do not think you can get acquitted any more, maybe not so much in your particular court, but in general. In some cases it seems so tilted by the government. That is why I think the defendant should always be able to say he wants to go to trial tomorrow. That an is important thing to them. It could be held against them for years.

What really bothers me, and I brought it up, Mr. Chairman, with Mr. Meese when he was in, was that the U.S. attorneys just go out and say we are going to have a retrial when there is a hung jury before they even think about it. They do not care about the amount of Federal money being spent at all. I think what is going on down in Louisiana is terrible. If the jury was, as the media reported, 11 to one for acquittal. In Massachusetts we had a certain trial in which the jury was out a few days. It was a State Senator who had to spend a couple hundred thousand dollars of his own money, and the jury came back hung, 11 to one. The U.S. attorney did not even go out of the courtroom, and he said, "We are going to retry it."

They retried and it got hung up again. During the deliberations, when the defense attorney was asked by the media what was going to happen, he said there will probably be another retrial. The U.S. attorney responded, "If it is we will retry again."

I think if the jury comes back 11 to one for acquittal that the Feds should at least look at it.

LACK OF CONTROL OVER CASE FILINGS

Judge Clark. Mr. Chairman and Mr. Early, I will make one comment and I will let Judge Hungate answer you.

What you have just pointed up is one of the other problems that the Judiciary has. We absolutely cannot control prosecutorial discretion. It is unconstitutional for us to do so. The Supreme Court has so declared and every other circuit that I am aware of. I know Iowa's has.

The problem is that our customers, the Justice Department and individual litigants, control what we have to do. We are not sitting here with our hand on the spigot. Somebody else is putting the water in, and Congress is telling them how big the spigot can be.

I would like to ask Judge Hungate if he would comment.

Judge **Hungate**. You are dealing with the presumption of innocence, Mr. Early.

Mr. **Early**. That is what I always thought.

Judge **Hungate**. You are presumed guilty until proved influential. [Laughter.]

Even that rule is changing.

You touch a part that is sensitive, and Judge O'Brien is on this Budget Committee, too, Mr. Smith. You probably know, and I did not, that grand jury rooms are charged to the courts. The grand jury, how long they meet and how much money they spend and how many hours a day they work, whether they have eight grand juries or two. The court pays this out of their budget, but this is not controlled by the court itself. This is controlled, as you know, by the prosecutor.

Some of us think that if they paid the bills for the grand juries, they might use them more economically.

Mr. **Early**. I think you are right. This particular case did end up coming back the second time, and it ended up coming back for acquittal. But the U.S. attorney said if it did not, he was going to appeal. That, in my opinion, is holding no regard for what the defendant was paying or whether he was being treated fairly and justly.

Don't we ever make the presumption that you are innocent until proven guilty? That is discouraging. It is also a threat to the whole system of justice.

Thank you, Mr. Chairman.

NEW MAGISTRATES

Mr. **Smith**. What about magistrates? There is a request now for new magistrates. What are the criteria for additional magistrates?

Judge **Clark**. The Magistrates Committee has a definite formula that they use. I know that concern has been voiced that the magistrates may be doing glorified law clerk work. I can only testify based upon my own experience. That is absolutely not true.

The magistrate system has been one of the saviours of the judicial system nationwide. Those magistrates are doing judicial-type work, though definitely work that the judges have decided upon in each court—and each court runs its magistrate system somewhat differently, depending upon the preference of the local district judge.

But I would say the most prominent uses of magistrates are to try prisoner petitions and to try Social Security cases. In some cases they are assigned to handle the preliminary stages of habeas corpus cases. Many times they make even reports and recommendations in habeas corpus cases. But I do not know of any district in the United States where the work done by the magistrates is not truly judicial-type work. It is work that a judge would have to do if it were not for the magistrates.

SELECTION OF MAGISTRATES

Mr. SMITH. What kind of process do you go through to select magistrates?

Judge HUNGATE. That is one of the powers the district courts still have. We have run ads to give people that are interested the opportunity to apply. We have recently selected one within the last six months. We have six active judges on our court, and I guess we each named one person to the selection committee. And at least two of those people must be nonlawyers under our ruling. It was a seven-member group, so the chief judge added a person as chair. They meet and review the applications. They then submit to us five names whom they regard as qualified for the magistrate's position. We examine the resumes; then those people come and appear before us. We interview them. And after that, we make a determination.

Mr. SMITH. Who is on this committee that submits these five names?

Judge HUNGATE. In our court, each judge names a member of that commission, and then that commission meets and we think they did a very fine job, offered us some fine candidates.

Mr. SMITH. They had a lot of applicants, did they?

Judge HUNGATE. Oh, I am going to say at least 12 or 15 for one job opening. It is delicate to say, but I guess I ought to say it, and that is that one of the candidates that was truly outstanding, I think, for any position, he was making about three times what a magistrate makes.

Mr. SMITH. How much does a magistrate make?

Judge HUNGATE. Well, they make less than we do, surely, about $68,000.

Judge CLARK. $68,400.

Judge HUNGATE. They are appointed to an eight-year term and the retirement system is kind of in limbo right now.

Mr. GARABEDIAN. There is an effort to liberalize it.

Judge HUNGATE. They have problems with that. But, anyway, they get about $68,000. This fellow, as you would understand with these big law firms today, was making three times that much money. He had a wife and about four or five children and none of them out of high school yet. So we just had to kind of talk to him, you know, how are you going to feel, how is your wife going to feel in five years when you have to put those kids through college.

We had very good candidates, good results. They do a valuable service.

Mr. SMITH. Do you have a criteria for it, or do you just review and look at what you have?

Judge HUNGATE. We review and look, and the particular candidate that we selected this time is one that when we considered her last time, was one of the five that had not quite met the standards. We were very fortunate, we think. Our court is a mature court. Probably most of us are 50 or so, and this magistrate is probably about 35, a lady, and black. If they were not qualified, we would continue to look, but she is very well qualified, from Michigan Law School.

Mr. SMITH. Is there any certain number of years of practice or any certain kind of practice or anything like that?

Judge HUNGATE. I would have to say to screen, we question them about their practice, Mr. Chairman, and this particular lady had been in the same law firm I was in the three years in between the time I was in Congress and went on the court. So I was familiar with her abilities from that practice. She was also prominent for doing pro bono civic work on some charitable things.

Now, we had others. We had one applicant that had been probably one of the foremost bankruptcy lawyers in the city.

I am trying to say that they may have quite different backgrounds and still be able to handle the job.

Mr. SMITH. You are asking for an increase of $1,165,000 for five new full-time magistrates. Where would they be located?

Judge CLARK. No, sir. I do not know that. I will have to furnish that for the record, Mr. Chairman.

Mr. SMITH. Maybe somebody else has that.

Judge CLARK. I will get it for you in just a second.

Mr. SMITH. All right.

MAGISTRATE ASSIGNMENT CRITERIA

Judge CLARK. I would like to give you one thing that I did not give you before: the criteria that the Magistrates' Committee uses on a nationwide basis to assign magistrate positions to a district. The first is caseload. That caseload must equal the national average, 450 cases, unless there is some very unusual circumstance pertaining otherwise.

The second thing they look to is the Court's commitment to using magistrates for judicial duties and not to use them as law clerks.

The final thing is that they never assign more than one magistrate for two judicial positions, again unless there is a highly unusual situation. The actual assignment of these five magistrates is listed at page 6.14 of the budget justification: Pittsburgh, Pennsylvania; Baltimore, Maryland; Oklahoma City, Oklahoma; Tulsa, Oklahoma; and Columbus, Ohio.

Mr. SMITH. How many magistrate positions are open?

Judge CLARK. I don't know that, sir. I will be glad to get it and put it in the record.

[The information follows:]

As of March 1, 1986, 11 magistrate positions were vacant.

Judge HUNGATE. Mr. Chairman, magistrates may also try, with the consent of both parties under 636(b) and (c), almost any other case that you have before you. That is very useful.

I think most courts have come to explain that to the parties. Now, it is in the statute. We cannot force them to do it. I mean, we have to say, you don't have to do this.

It comes in handy when you set your civil cases, and I will usually set 10 or 12 for the same day because I know that eight or nine of those are going to settle. I don't want to sit there with a jury and nothing to do.

Now, you have three, let's say, that did not settle. You can then say, now, we have a magistrate right in the building that uses the same jury pool we do and they are as good, and in some cases maybe better, lawyers or judges and we get some results that way.

Now, we are not at a position where we can force them to go. They do other matters ours do: these prisoners' petitions. We have Moberly, the medium-security prison in Missouri. We get some petitions out of that.

They will go out to the prison to hold a hearing where that is the agreement. They will, maybe, go out to Baris, Missouri, near the site of the prison, a new state facility and try a prisoner case.

Judge **Clark**. Mr. Chairman, may I supplement by answer to one of Mr. Early's questions?

Mr. **Smith**. Sure.

Judge **Clark**. The actual figures, Mr. Early, are a little bit higher than I had predicted on medium times in the disposition of appeals. Five years ago, it was 11.5 months; now it is down to 10.3 months. It does show a steady decline in the length of time taken.

It was a little longer than I thought because of the difference between the circuits.

EFFECT OF BUDGET CUTS ON CASELOAD

Mr. **Early**. I was just trying to make a point, that if this budget cuts your resources so much that it shifts that positive trend, you would do well to bring it to the attention of Chairman Smith.

Judge **Clark**. And we predict that it will.

Mr. **Early**. You do?

Judge **Hungate**. In our work with the Budget Committee trying to slash the funds away, we cannot make the final determination whether you cut the jurors' mileage, whether you don't pay jurors' parking. That would not matter in Hannibal; it would be serious in New York or St. Louis.

As Judge Clark has mentioned, there is the possibility that for the last three months of the year or something like that we might not be able to try civil jury cases. You are going to have to deal with the criminals.

Mr. **Early**. You certainly should bring that to the attention of the Chairman.

Judge **Hungate**. We don't hope to get to that, but I am trying to say that the choices are sometimes very unpleasant.

Mr. **Smith**. Where you talk about assigning three civil cases for the same day——

Judge **Hungate**. Yes, sir.

Mr. **Smith** [continuing]. One of the lawyers I used to try cases with tells me that sometimes two Federal judges tell him he has to be in their court the same day. He'd say, "I am already assigned to be in another one," and they would say, "That's too bad. You have to be here, too."

Does that happen very much.

Judge HUNGATE. This would never happen in Missouri, Mr. Chairman. [Laughter.]

But I am not done with my story.

Sometimes lawyers who are not from Missouri will tell you they are in another court the same day. Some of us are somewhat skeptical.

If it actually happened, I think he would have an adequate remedy. I have had them go to the Circuit Court of Appeals for a mandamus to stop me from trying a case. So there is a remedy if that happens.

But it is very interesting. I have had them come in, and say that their child had taken the chicken pox. I had one guy come in, and say "Well, my wife is having a baby." I said, "Congratulations." He says, "Well, no. It's Lamaz and I must assist." I said, well, he had me there, "Go ahead."

In the next two weeks, I had three Lamaz babies of people set for trial. [Laughter.]

I mean, you get a little skeptical.

Judge CLARK. Judge, I would add that in the Fifth Circuit, we have a Federal/State Judicial Council in each one of the three states in that Circuit. Every one of those Councils has agreed on a first firm setting rule both within the Federal Court and within the State Court.

Any lawyer that has a firm setting—not one of these up-in-the-air settings; "We'll get to you next Thursday, maybe", things—in another court, then that takes precedence over a setting in the Federal courts.

Mr. SMITH. Well, this lawyer tries in more than one circuit. So I don't know if these cases are all set in the same circuit or not.

Judge HUNGATE. Mr. Chairman, sometimes you look at the size of the firm, too. I had one say they could not go to trial. "How many lawyers?" "We have 200 trial lawyers" in that firm and the case is three months away.

I suppose the judge would then say, "Well, get somebody and get ready, then."

Mr. SMITH. Well, he could meet that requirement. If he is a lawyer, he is a lawyer. He tries them by himself.

Judge HUNGATE. Then it is a fellow who has a solo practice. I am very sympathetic to those people.

APPELLATE DEPUTY CLERKS

Mr. SMITH. What about the deputy clerks? You are asking for 71 positions for deputy clerks for the Courts of Appeals. That sounds like a lot of positions.

Why is this necessary?

Judge CLARK. These are based on a formula of 75 filings for one clerk. It is a formula that we have used, with Judicial Conference approval, for a number of years. This is the basis upon which we have made the request.

Mr. **SMITH**. Does it make any difference what kinds of filings they are, or is the work load the same whatever they are?

Judge **CLARK**. The appellate court filings tend to be a lot more even than district court filings as far as clerical input is concerned. They are much more standardized in the work that the Clerk's office has to do.

TEMPORARY DEPUTY CLERKS

Mr. **SMITH**. Can you hire temporaries for deputy clerks?

Judge **CLARK**. I don't know whether we have any temporaries in the Courts of Appeals.

Mr. **PELLICORO**. Mr. Chairman, we employ temporaries when the task to be performed is a non-recurring item or something that is short range.

Normally, the case load in the appellate courts is fairly stable, fairly predictable. We have experienced a steadily increasing caseload over the last nine or ten years.

Part of the problem is we were operating a little bit above the ratio, but we have tried to get into automation and certain other operations. As a consequence, we have operated pretty much at the 75 percent ratio.

DISTRICT COURT DEPUTY CLERKS

Mr. **SMITH**. Now, there is a request for 225 deputy clerks at the District Court level. What is the formula there?

Mr. **PELLICORO**. The formula consists primarily of filings. About 60 percent of the formula basis is civil and criminal filings, which are weighted based upon effort within the Clerk's office.

For example, student loan cases, when they emerge in very large numbers, we rate those at 20 percent of the effort of a normal case. We weight certain petty offense cases that way as well.

In addition to that, we have divisional offices which involve threshold costs, of course; the number of judgeships which imposes an additional effort on the Clerk's office; Central Violation Bureau collections, which result in about $5 or $6 million coming into the Treasury annually; and naturalization petitions, which vary by court.

All of these factors are put together in the work measurement formula. The primary increase for an additional 200 positions is about a 4½ percent increase in caseload, which would yield about 140 of those 200 positions.

We are also asking for some positions for pro se law clerks and some for systems administrators to help automation to be implemented in the most effective manner.

Pro se law clerks, you may remember, is a program approved four or five years ago to handle prisoner petitions, the surge in prisoner petitions in many courts, and we believe we can deal with those in a more effective manner in the court.

Judge **CLARK**. Mr. Chairman, I have with me, if you would like for it to be introduced into the record, the actual details of the Functional Work Groups that make up this work measurement formula and the staffing ratio that each of them puts in.

Mr. **SMITH**. Okay. We will put it in the record.

[The information follows:]

District courts work measurement factors

Functional work group	*Staffing ratio*
1. Civil and criminal filings	147:1
2. Active judgeships	0.68:1
3. Juror days	11,100:1
4. Appeals	263:1
5. Attorneys admitted	1500:1
6. Divisional offices	2.13:1
7. Senior judges activity (hours)	454:1
8. Additives:	
a. Prisoner petitions	820:1
b. Law clerks	103:1
c. Central violations bureaus:	
Automated courts	13,500:1
Manual courts	9,500:1
d. Naturalization petitions	2,770:1
e. Juror days	22,200:1
f. Travel (miles driven)	60,000:1

BANKRUPTCY FILINGS

Mr. SMITH. Now, you have a request for an increase of 466 positions for Bankruptcy Clerks' offices.

Is this the increase for bankruptcy cases nationwide, or is it just in certain areas? Are there any reductions in some areas or not?

Mr. PELLICORO. With the exception of the Northeast, it is pretty much across the country. Judge Hungate is familiar with the number of farm bankruptcies we have had in the Midwest.

Judge HUNGATE. So is Chairman Smith.

Mr. PELLICORO. The other very key factor is the price of oil, which has affected Texas, Louisiana and other oil producing states in very significant numbers. We have had 20 to 30 percent increases in bankruptcy filings in those areas.

But the most recent data for the 12 months ended December 31, 1985 over September 30, 1985, which is only a three-month period, is an increase of 28,000 cases.

Mr. SMITH. Nationwide?

Mr. PELLICORO. Nationwide, or about 13 percent in a three-month period. So it just looks like it is going to be with us: the domino effect of foreclosures in Texas, people protecting their homes; everything related to the petroleum industry.

We have just had a tremendous surge, outside of the Northeast, in bankruptcy filings with some very dramatic effects.

Mr. SMITH. Are there reductions in the Northeast, or is it steady up there?

Mr. PELLICORO. Pretty much level, Mr. Chairman. We have had some slight increases in some states and some downturns in others; but, overall, it seems to be pretty constant. I am not sure about industry moving away from there.

It just has not experienced the surge that we have had in other areas, mainly the Midwest and Southwest; certainly, the farms and so forth.

Mr. SMITH. Well, the increase in bankruptcy is everywhere except in the Northeast at a time when statistics indicate that there is a growth in the economy. Some people will not believe that, but that is what the statistics indicate, nationwide.

What in the world is going to happen if we have a slow down?

Judge CLARK. It will get worse, Mr. Chairman. The predictions that we make—and they have been extremely accurate, amazingly accurate to my mind—are based on two overriding factors.

You do have area problems, such as the farm economy in the Midwest, such as the oil economy in the southwest; but overriding all of those things you have continuing high interest rates. We are not seeing rates of interest as high as they were before, but we still know that people are candidates for bankruptcy——

Mr. SMITH. The real interest rate is very high.

Judge CLARK. Ten percent, and this is more than a business that is struggling can carry; number one. Number two, we have an abundance of credit available. You can get that plastic credit from so many sources. The interest rate on those in most places is 18 percent.

Before you know it, you are head over heels in debt and this is causing the individual bankruptcies, and this is where the greatest impact is. Of course, you do get spectacular bankruptcies.

TYPES OF BANKRUPTCIES

Mr. SMITH. That is what I wanted to ask you: What is the percentage of bankruptcies that involve people who are in an honest to goodness business compared to people who have a salary and just charge too much on credit?

Judge CLARK. The latter category is much higher. On page 6.28 of the budget justification, you have the different breakdowns. Your Chapter VII filings, which are by far the greatest number, are the ordinary bankruptcy. This would be the individual bankruptcy.

Chapter XI would tend to be your business-type bankruptcy that is seeking reorganization. Chapter XIII is the wage-earner plan under which a person who is steadily employed can come in and take bankruptcy, relieve himself from the immediate presses of his creditors, and still have a work-out system whereby he repays his debts.

Mr. SMITH. But the same person may go from a Chapter XIII to a Chapter VII.

Judge CLARK. That is possible. It is also possible for the Chapter XI bankruptcy reorganization to turn into a VII.

Mr. SMITH. But those figures don't really tell us how many are individuals compared to how many are businesses.

Judge CLARK. I would say that you could count on almost the entirety of the VIIs and XIIIs being individuals, and almost the entirety of the XIs being businesses. It is very popular these days, more so than it ever has been, to go into a reorganization.

It does provide the opportunity for rehabilitation in that it extends the time to reorganize.

Mr. SMITH. There are a lot of farm-related bankruptcies in Iowa where they have gone from XI to VII.

Judge CLARK. Yes, sir. That happens frequently.

As I say, it may very well be that if you made an objective analysis, the person ought to have been in a VII all along.

Mr. SMITH. He will finish out the crop year, for example, in an XI and then go to VII.

Judge CLARK. He will take an XI to try to get a little more time in the hopes that maybe the worm will turn and he can come up again.

Mr. SMITH. Well, maybe we need a change in the Bankruptcy law. Is it too easy to file for bankruptcy for individuals, now?

Judge CLARK. I don't know that you would find anybody in serious financial trouble that would say that it is too easy. I am sure, too, that you will find some credit institutions that would like for it to be tougher.

Mr. SMITH. Well, for a while some students, as soon as they graduated from college, would file for bankruptcy and get rid of the debt. Is that still going on?

Judge CLARK. I don't know that. I am not sure.

But I do have more accurate figures, Mr. Chairman. The total percentage of bankruptcies that were non-business in 1985 was 81.7; the total that were business-related, 18.3.

Judge HUNGATE. As you look at the statistics, Judge Kelley, who is a Bankruptcy Judge on our Committee, pointed out that prior to the new law when a husband and wife took bankruptcy both got a number. Now, if it is a husband and wife, they just get one number.

So I am saying, from that point of view the statistics are even worse than they look.

PRETRIAL SERVICES AGENCIES

Mr. SMITH. Now, what about Pretrial Services, establishing separate offices?

Judge HUNGATE. In the Eastern District of Missouri, we have not done it, Mr. Chairman, and we are very well satisfied with the service we get from the probation office. We think we have one of the quickest acting probation offices in the country, particularly on presentence investigations, they get back to us in about three weeks.

Mr. SMITH. Why is there so much difference of opinion on this question?

Judge CLARK. Mr. Chairman, the judges who are involved with the decision—and the law very definitely leaves it to the local court to decide whether to establish pretrial services in a separate office or within the probation office—preponderate in favor of putting it in the probation service because of the simple economy of the thing.

You don't have another structure of supervision to accomplish this purpose and they don't believe that there is any subverting of the role of the pretrial services officer when he is placed under the probation officer.

They think it is a very closely akin matter where one service is not going to override the other or push the preservice function aside. The Judge is going to call or the pretrial service function to be performed when he needs for it to be performed.

Mr. **Smith**. This controversy has been one of the most difficult for this Committee to deal with.

Judge **Clark**. The result, Mr. Chairman, of your difficulty is difficulty for the Court in administration. We have the courts pressing for consolidation of these offices because it is sensibile in their particular districts; and then, as you know, there is pressure on the other side.

MAGISTRATES' STAFF

Mr. **Smith**. Now, we talk about these magistrates. What kind of help do they have?

Judge **Clark**. A magistrate would have a secretary and would have a law clerk, a so-called legal assistant.

Mr. **Smith**. Is that law clerk a law student or one who has graduated?

Judge **Clark**. No, it would be a graduate, in most cases.

Mr. **Smith**. It is a lawyer.

Judge **Clark**. There may be some magistrates that have——

Mr. **Smith**. Do they select their own clerk, their legal assistant?

Judge **Clark**. They do in the courts that I am familiar with.

Judge **Hungate**. They do in our court. We have four magistrates; they select them.

Mr. **Smith**. What do they pay the legal assistants?

Mr. **Garabedian**. They are paying JSP-11 or JSP-12, depending.

Judge **Clark**. The grade would be a JSP-11 at the entrance level and they go up to JSP-12 if the person stays more than a year.

Judge **Hungate**. I don't think they all have law clerks.

Judge **Clark**. No.

Judge **Hungate**. I think there are some magistrates in the country, maybe primarily where they handle a lot of traffic matters on a Federal reservation or something, there is a number——

Judge **Clark**. 20 legal assistant positions are not authorized at the present time.

Judge **Hungate**. So they don't all have them, but they are very useful.

Mr. **Smith**. Well, is it expected that they stay a year in most cases?

Judge **Hungate**. I can just say where we are. That has been the practice, one year. Occasionally, you get a career clerk. There may be one in the building that has been there three or four years.

JUDGES' LAW CLERKS

Mr. **Smith**. What do you have in the way of clerks?

Judge **Hungate**. I have two clerks. When I had the school case, I had three. I had a temporary clerk at that time, I no longer have it. The temporary clerk went with the case.

In four years, we had 3,500 filings in that case. That case had, at one time, 107 parties.

So when we discuss totally eliminating—and some of us do, under the budget—all temporary clerks, there will be some cases where it will be very difficult to do that.

Mr. SMITH. Your clerks just stay one year or more than one year?

Judge HUNGATE. Mr. Chairman, I try to be hard to get along with. I bring them on on a 60-day approval and say, "In 60 days you may not like me or I may not like you. If you are here after 60 days, you are here a year; and, at the end of a year, I would like an option for your second year." That way, if I don't want the option, I don't have to exercise it.

I try to alternate so I get new blood along the way. Each year, I get new blood, but I am not breaking in two clerks all the time.

Mr. SMITH. Are there any that just stay as Clerks for years?

Judge HUNGATE. Forever, you mean?

Mr. SMITH. Yes.

Judge HUNGATE. We have a senior judge that has had a gentleman—I have been on the court seven years and he was there when I came, and he is still there. So I guess he is career.

But that is very unusual. I don't know of any other case like that in our area out of ten judges.

Mr. SMITH. Well, from the judges' standpoint—I know it is nice to rotate from the standpoint of the clerks—would they not get more out of a clerk that stayed several years?

Judge HUNGATE. Oh, a great deal, Mr. Chairman. I do have one, right now, that was on that school case with me for about three years and is with me now. I would not run her off as long as she would stay.

But at the same time I have another clerk that I change every year. So I think there is merit in getting new blood. I mean, judges get hide bound.

Mr. SMITH. Does anybody know what a JSP-12 pays?

Judge HUNGATE. What does a JSP-12 pay?

Mr. GARABEDIAN. Grade 11 is $26,381; grade 12 is $31,619.

Judge CLARK. Mr. Chairman, I would give you one more aspect of this thing. That is that on the appellate side each judge has three law clerks and, almost universally, those clerks change once a year.

We don't have this same continuity in cases in the Appellate Court that you do in the District Court and we can get students of higher standing in their class, better law journal experience if you just bring them on for a year and then let them go on into industry because every one of the Appellate law clerks can get a job in industry at 40 to sometimes as much as 75 to 80 percent more than they were paid.

IMPACT OF GRAMM-RUDMAN

Mr. SMITH. Under Gramm-Rudman everybody is supposed to cut back 4.3 percent. The overall amount of money that we are going to have available within our maximums for outlays for the bill, we are talking about now, is going to be less money.

We have certain areas that are exempt, so-called safety net areas. In other areas, like health programs, the FAA that has an additional passenger load constantly, I don't know how you are going to cut back on the number of controllers.

Where you have health inspectors, as in meat inspection, if you cut those back you close down a packing house. They are going to stop the line when there is no inspector there.

I don't know how we are going to deal with all these things. You get into an area of difficulty to say you are going to cut off filings on Friday morning. I don't know how we are going to handle some of these problems.

Judge CLARK. I wish I could make a good suggestion for you. I wish I had an easy answer, Mr. Chairman.

I do appreciate the difficulty that the Committee faces. I can only make the plea for our own case.

We are certainly going to furnish you with the exact Gramm-Rudman cut that we are requested to furnish in 1986; but, as you have already observed, our 1987 budget is structured on the restoration of those cuts because we face things like—for instance, in talking with the CJA, the appointed lawyers' group yesterday at the Administrative Office—the fact that in five cases, just five, out of thousands that we have to appoint lawyers to try, billings of between $7.3 and $10 million.

We never know when a case like that is going to hit us. It is a complex, multi-party case that requires representation of each one of the defendants.

In one case, we have the unique situation that there are quite a number of wire taps that are recorded. Those wire taps are in Spanish, some of them are in English and the defendants are Spanish. We have to have interpretors to translate the tapes and then furnish copies of those tapes to the parties in addition to paying the cost of counsel for those parties.

Unique things like that are things that we cannot stop as long as that Speedy Trial Act is there. We have got to try criminal cases, either try them or dismiss them. That is an unacceptable alternative.

I guess we are just like the FAA or these other agencies that you have mentioned in that regard in the sense that we just cannot stop doing what we are doing as long as Congress has given us the command to go ahead; but we are not an agency.

That is the one thing that I hope the Committee understands. We are not discharging any kind of a program that is optional with us to stop.

OFFICE SPACE RENTAL

Mr. SMITH. What is the total amount for space rental?

Judge CLARK. $168,748,000 in 1987.

Mr. SMITH. You are asking for an increase of $32,520,000. What is that based on?

Judge CLARK. It is based on the increases in SLUC billing and a very slight increase in space occupied.

Mr. SMITH. These billings that you base that on, do you have a breakdown of how many of those are Government-owned buildings compared to leased buildings?

Judge CLARK. $22,699,000 of our budget would go into government-owned building rental; $4,006,000 to private.

Mr. SMITH. 85 percent government-owned; and they are increasing the billings for Government-owned buildings by what percent?

Judge HUNGATE. Mr. Chairman, it is just under 20 percent. The amount of money comes to a little over $21 million that is for the increased rental for exactly the same space that we now occupy.

The total increase is just over 19 percent.

Mr. SMITH. Well, this is another problem we have. This Subcommittee started out holding these SLUC charges down. The other Subcommittees have done it the last couple of years because we just had to.

Now, GSA is getting into problems because they have all these maintenance and other costs. Their new rentals are much higher. So that makes another problem that is hard to deal with.

GSA has to get some money somewhere to pay for that? So it does not look right, really, to have a 19 percent increase in the cost of government-owned buildings while, at the same time, the cost per square foot that you are going to be charged is still going to be considerably less than what they are having to pay for new rentals.

I don't know how we are going to handle this problem. We have done pretty well the last three years holding this down, but I don't know if we can do it anymore or not.

Judge CLARK. Mr. Chairman, I am sure you realize that the amount that we put in our 1987 budget is simply the billing that we have received from GSA.

Mr. SMITH. Right.

Judge CLARK. We are going to attempt, as a part of the Gramm-Rudman reduction exercise, to again survey courts to make sure that we are not occupying any space that we can do without.

We did that once in 1982, made a general system-wide survey, as a result of which we were able to eliminate some courtrooms. We will do that again in the effort to bring it down.

ADDITIONAL BANKRUPTCY COURTROOMS

Mr. SMITH. Now, where you are adding these Bankruptcy judges, how many courtrooms does that involve?

Judge CLARK. It is going to require some additional courtrooms. It will not be one courtroom per judge because we will bring them in, in some cases, into systems where there are already sufficient courtrooms to house them.

Mr. SMITH. They don't need as big a courtroom either, do they?

Judge CLARK. No, sir. In some districts, they are able to use District Court courtrooms that are not occupied.

Judge HUNGATE. You have wrapped that into the same problem because, in Hannibal, you are familiar with where we sit there, two weeks in the spring, two weeks in the fall. It is sort of a satellite place, a perennial candidate for closing.

Mr. SMITH. Can you not send people up there from St. Louis for the bankruptcies?

Judge HUNGATE. That is what I was going to say: that is what happens, you see.

We go up there two weeks in the spring and two weeks in the fall, and bankruptcy judges go up there two times a month and they may go four. You are talking about rural bankruptcies. They have them.

They have the business there that now justifies that courtroom.

Mr. SMITH. How far do you send people on bankruptcy cases. Where both parties are from St. Louis, how far would you send them?

Judge HUNGATE. Oh, well, I am talking about we have a Northern Division.

Mr. SMITH. You would not send them out of the division.

Judge HUNGATE. Oh, no. We have three bankruptcy judges and they all sit in St. Louis; but once a week, we will say, one of them goes up to Hannibal and maybe once a week, one goes down to Cape Girardeau in the south.

You have another problem which is geography, as you know. For people in Kirksville, which would be another 150 miles from Hannibal, it is a little more reasonable to make them go to Hannibal than to bring them another 120 miles on down to St. Louis.

I was getting at the use of the facility. There is a facility where the argument is strong to close the facility, but the bankruptcy judge uses that. There is no conflict between them and the district court. We are not there enough to conflict and they use it every week or every two weeks.

Mr. SMITH. Well, we will see what we can do. We will have to keep in touch, though, in case we have to make some reductions.

Judge CLARK. We always appreciate your interest, Mr. Chairman. We will give you tentative figures. If there is an immediate need or immediate chance for legislation, we would like the privilege of giving you some tentative figures to include in that legislation with regard to needed transfers of funds between appropriation accounts.

As soon as we have a definite answer for you, we will also be in touch with you about that definite answer.

Mr. SMITH. Thank you. We have some additional questions which we shall submit to you and you can provide answers for the record.

Judge CLARK. Thank you, sir.

Judge HUNGATE. Thank you, Mr. Chairman.

[The questions and the answers thereto follow:]

QUESTIONS SUBMITTED BY MR. SMITH

General Question

QUESTION:

The budget justifications on pages 4.3 and 4.5 indicate that the number of cases pending in the courts of appeals and the district courts increased by 4.6 percent and 2.9 percent respectively at the end of fiscal year 1985 compared to fiscal year 1984. What solutions would you propose to address these growing caseloads, other than increasing the number of judges? What is the Judiciary currently doing to address this problem?

ANSWER:

The only effective solution is for Congress to reorganize jurisdictional grants to Federal courts. The jurisdiction of such courts should be limited to the resolution of classes of cases and controversies which have a clear national purpose. Diversity jurisdiction which does not implicate multi-state cases should be abolished. Congress may also wish to reconsider the present extent of agency review and the unrestricted right of appeal in every civil case. If the input into the system is not curtailed, the system will have to continue to expand to handle increasing caseloads.

The Judiciary is continuing to innovate and experiment with methods of expediting cases and procedures in cases. We are encouraging all forms of alternative dispute resolution and arbitration. We have utilized settlement programs and develop summary jury trials to encourage the resolution of cases already filed. The summary jury trial is a courtroom procedure in which attorneys, in the presence of the judge, make an oral summary to a jury of the evidence that they would introduce at trial. The jury then deliberates and returns an advisory verdict to be used by the parties as a basis for the final phase of settlement negotiations to avert an actual trial. While these alternatives do not directly influence caseload volume, they can have a major impact on the cost of Federal civil litigation and the rate of its disposition. We have used the class action device and consolidation of cases with similar issues to move similar suits expeditiously. We are advocating an increase in filing fees and other miscellaneous fees to partially offset the increased costs of operating the court. This may have some minor impact on the number of filings. However, unless the input volume of jurisdiction is curtailed, the caseload will continue to rise faster than innovations can be devised to handle it.

SALARIES OF JUDGES

QUESTION:

I understand that funds for the salaries of Article III judges are exempt from sequestration. Please provide for the record a statement detailing the funds you are requesting for the salaries and benefits of Article III judges and non-Article III judges.

ANSWER:

The sum of $85,775,000 is requested for Article III judges and $19,225,000 is requested for non-Article III judges.

QUESTION:

I understand that legislation is under consideration to liberalize the judicial survivors annuities system. What will be the budgetary impact of that legislation?

ANSWER:

The Congressional Budget Office estimate contained in the Committee report on this legislation states that the budgetary impact would be $2,000,000 in fiscal year 1987 budget authority.

SALARIES OF SUPPORTING PERSONNEL

QUESTION:

On page 6.10, you indicate that the Special Rail Reorganization Court's salaries and benefits for eight positions is $308,000, and that there are 29 civil actions and nine miscellaneous actions pending. Does the nature of the caseload require the continued operation of this court, or do you think that legislation might not be in order to transfer jurisdiction for these remaining cases to the district courts?

ANSWER:

The judges of the Special Court are unanimous in their belief that the court should be continued at least until the sale of Conrail has been consummated. The reasons that underlay Congress' decision to centralize litigation under the Rail Act in the Special Court are just as strong today as they were in 1974 when the Rail Act was passed and in 1981 when the jurisdiction of the court was expanded by the Northeast Rail Service Act. Indeed, those reasons may be even stronger because of the knowledge that has been accumulated by the court over the years. Congress' decision to have all litigation arising from the Rail Act, Final System Plan, and NRSA decided by one centralized court has allowed the restructuring of rail service in the region to proceed without conflicting judicial interpretation. It would be most unfortunate to have the interpretation of the Rail Act and NRSA now relegated to a number of district courts around the country. A transfer of jurisdiction to the district courts may be especially untimely as Conrail sale legislation is presently before Congress and the bills under consideration, including the bill passed by the Senate (S. 638) and the majority of bills introduced in the House, provide for substantially increased Special Court jurisdiction.

The Special Court operations have been funded from a no-year appropriation made in 1978. The fiscal year 1987 budget request for eight positions is a reduction from the present authorization of nine positions. Having considered the budgetary problems facing the judiciary, the Special Court has reevaluated its requirements and the judges propose that the number of authorized positions be further reduced to seven in fiscal year 1987.

QUESTION:

You indicate that a 1983 GAO report recommended that the Judicial Conference encourage "qualified districts to request new magistrate positions." I understand that GAO also recommended that the Judicial Conference provide additional guidance to District Courts in implementing the civil trial provisions of the Federal Magistrates Act. What action have you taken to implement this recommendation?

ANSWER:

As noted in the GAO report, the Administrative Office published a document entitled "Guidelines to Implement the Federal Magistrates Act of 1979." The guidelines were approved by the Magistrates Committee of the Judicial Conference and contain recommended procedures on executing the civil trial consent provisions contained in the 1979 amendments.

The Magistrates Committee considered the recommendations contained in the GAO report and decided not to revise the guidelines, as suggested by the GAO, to define the limits imposed upon a federal district judge or a magistrate in informing the litigants of their option to consent to trial before a magistrate in a civil case. The Committee noted that the legislative history of the 1979 amendments emphasized the proscription against any judicial coercion. Accordingly, the Committee felt that changes by the Judicial Conference in bringing judges or magistrates into this process or by having clerks take follow-up action when consent is not forthcoming could be perceived as implicitly coercive and thus contrary to the intent of Congress.

QUESTION:

What has been the impact, if any, of the pretrial detention provisions of the 1984 Crime Control Act on the workload of the magistrates?

ANSWER:

For the period beginning February 1, 1985 (the date when reporting procedures became effective) through June 30, 1985, magistrates conducted 4,178 detention hearings. An additional 3,227 detention hearings were conducted by magistrates during the six-month period from July 1, 1985 through December 31, 1985. These hearings are often somewhat time-consuming and result in additional workload pressures on magistrates.

The GAO is currently conducting a study to assess the impact of the Bail Reform Act of 1984. The study is expected to determine the extent of the additional workload requirements on magistrates and their staffs which have resulted from the new pretrial detention provisions.

QUESTION:

On page 6.19, you are requesting 10 additional positions and $413,000 for circuit executives. What are the duties of the circuit executives in the administration of a circuit, and how do these duties justify these increases in staff?

ANSWER:

The duties of a circuit executive are determined by the circuit council. The duties that may be delegated, but not limited to, are set forth in 28 U.S.C. 322 (copy follows). The ten additional positions requested for the circuit executive function are justified as follows:

Second Circuit - An administrative assistant is needed to perform duties associated with the delegation of responsibility for providing administrative support and legal research for judicial misconduct proceedings that have resulted from the passage of the Judicial Council's Reform and Judicial Conduct Disability Act of 1980.

Fifth Circuit - Two administrative assistants are needed to insure adequate support staff for district and bankruptcy judges; conducting special surveys; coordinating, organizing, and directing selecting procedures for bankruptcy judges; performing special research projects; providing support for the judicial council meetings; and determining the space and facility needs of the Fifth Circuit. An additional secretary will be required to provide secretarial support to the administrative assistants.

Eighth Circuit - One administrative assistant and one secretary are needed to provide staff for the recently established St. Paul division of the circuit executive's office.

Ninth Circuit - Two administrative assistants and one secretary are requested. One administrative assistant will handle complaints of judicial misconduct resulting from the passage of the Judicial Council's Reform and Judicial Conduct Disability Act of 1980 and the other will perform duties associated with managing, monitoring, and accounting for the hundreds of space expansion and/or alteration projects initiated in the circuit annually. The secretary will provide necessary clerical support to the administrative assistant who is responsible for handling complaints of judicial misconduct.

Tenth Circuit - An administrative assistant is needed to perform duties caused by increased workload and responsibilities associated with the Equal Employment Opportunity Program, increased record keeping, procurement and space management.

(e) The judicial council of each circuit may appoint a circuit executive from among persons who shall be certified by the Board of Certification. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated to him by the circuit council. The duties delegated to the circuit executive of each circuit may include but need not be limited to:

(1) Exercising administrative control of all nonjudicial activities of the court of appeals of the circuit in which he is appointed.

(2) Administering the personnel system of the court of appeals of the circuit.

(3) Administering the budget of the court of appeals of the circuit.

(4) Maintaining a modern accounting system.

(5) Establishing and maintaining property control records and undertaking a space management program.

(6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference.

(7) Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief judge, the circuit council, and the Administrative Office of the United States Courts.

(8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshal's office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit.

(9) Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings.

(10) Preparing an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the circuit.

All duties delegated to the circuit executive shall be subject to the general supervision of the chief judge of the circuit.

QUESTION:

Are the district courts being staffed based strictly on a formula allowance without regard to the level of efficiency?

ANSWER:

Basically, yes. The work measurement formula, which we use as a guideline, provides staffing basically on an average basis, so that those clerks' offices which are less efficient than average will not be able to perform all the required work as defined in the study and those which are more efficient will be able to provide additional services to the bench, bar and public. Some inefficiencies have been addressed, such as the language problems in Puerto Rico, and appropriate staff provided. The formula has been changed to reflect productivity improvement in several areas, however. Most notably in this regard is the additive for central violations bureaus which was recently reduced because the eight consolidated and automated centers are processing CVB tickets in a more efficient manner.

QUESTION:

On page 6.23 you indicate the nature of your case filings, especially civil, changes significantly from year to year. Does your staffing formula reflect the changing nature of your caseload?

ANSWER:

Yes. Civil filings are projected by major category, so that recovery of overpayment cases, social security cases, and land condemnation cases are all projected separately. These projections are based not only on the historical trend of these filings but also based on extensive discussions with individuals in each of the respective agencies involved, particularly the Veterans Administration, the Department of Health and Human Services, and the Social Security Administration. The staffing formula does reflect the changing nature of this caseload not only in the projections of the different categories, but also in the fact that we weigh recovery of overpayment cases at either 20 or 40 percent (depending on the volume) of an average case. It is important to note, however, that we only weigh the lighter cases, and not the heavier than average cases.

QUESTION:

On page 6.26 you are requesting an additional 35 systems administrator positions. How are you currently handling the program and systems analysis requirements of the courts? Since the five-year plan for automation of the Federal Courts is expected to reduce the manual workload of deputy clerks, have you considered retraining some of the existing clerks to maintain and coordinate the automated systems, thus reducing the need for additional systems administrators?

ANSWER:

The management team within each clerk's office is responsible for the initial implementation planning in each court. The systems administrator is authorized approximately three months in advance of the hardware delivery in order to do the requisite site planning and installation. The Administrative Office has prepared some implementation guidelines to assist the courts in analyzing their own situations and the Federal Judicial Center has published a comprehensive document entitled "Preparing a United States Court for Automation" which discusses all aspects of automation introduction and use. The data specification phase early in the life of each software development addressed the national requirements and was supplemented by input from selected clerks of court. Each clerk's office has to define their own unique needs and it is the responsibility of the systems administrator to implement the unique features to the extent possible.

Although some reduction in the manual workload is expected, especially in the financial and jury voucher areas, there are already increasing demands for more sophisticated statistical data for internal and external uses. The Federal Judicial Center has stated that before an automated system will be expanded, a cost-benefit analysis will be performed. Before the five-year plan is fully implemented, every deputy clerk involved with the use of automation will be trained to take advantage of this new technology. Each functional deputy, such as the jury administrator, will be responsible for knowing the ramifications of the automation software (e.g., jury). However, there will still be a need for a systems administrator to coordinate machine usage and upkeep as well as to tailor the software for local needs.

Twenty positions of the 40 positions requested for 1986 were not approved. The 20 not approved in 1986 plus 15 are requested for 1987 because 37 installations of the hardware systems are scheduled and virtually every site will require an administrator.

QUESTION:

What studies do you plan or have ongoing to identify other work measurement formulas that need revision?

ANSWER:

In Fiscal Year 1984 we conducted a complete work measurement study of the Bankruptcy Clerks' offices. At that time the new Bankruptcy Automated Noticing System (BANS) was not sufficiently implemented to be included. Therefore, in the first quarter of Fiscal Year 1986, we have measured the BANS courts and have revised the formula accordingly.

A study of the pilot installation of the Probation Information Management System (PIMS) has been delayed, pending the completion of the pilot process. In Fiscal Year 1983, a preliminary study of the manual system was conducted for use as comparative data. Following the complete implementation of PIMS, the final measurements will be made to determine the effect of automating the process in other probation offices.

Three additional studies are pending but only two are scheduled at the present. These are measurements of the District Clerk's offices (Fiscal Year 1987) and the Probation Offices (Fiscal Year 1988) for the purpose of revising present formulas. A study of the Circuit Clerks' offices is pending but is unscheduled.

Ideally, each work measurement staffing formula should be updated on an annual basis or as needed to compensate for added workload or changes in methods of operation. This is not feasible with present staff. Therefore, we recommend a revision every three to four years.

Because of concerns and queries submitted to the Office Systems Branch from each of the functions' officials, we have ongoing modeling studies to determine specific workloads not sufficiently addressed by the formulas, and the significance of each in terms of staffing. From these models, we can then schedule a complete revision or separate studies and determine the priority of study revisions.

QUESTION:

Please explain for the record how many of the 122 positions saved are attributable to automated noticing and how many are attributable to contracting out.

ANSWER:

Approximately 46 positions are attributable to BANS automated noticing and the remaining 76 are attributable to the use of private contractors and/or debtors.

QUESTION:

Since the Judiciary is in the process of automating the bankruptcy docketing and case management systems, how many positions will be saved over the next three years?

ANSWER:

We do not have an answer at this time, since the projects are in the pilot process. This process is designed to determine, among other things, the effect that a particular project will have on a court's operations.

QUESTION:

In addition to automation, what can the Bankruptcy Courts do to streamline, eliminate, or reduce the workload in the clerks' offices, while at the same time not significantly affect creditors and debtors?

ANSWER:

Many of the bankruptcy court procedures need to be streamlined to better improve efficiency. Since the Clerks Division of the Administrative Office has responsibility for the bankruptcy clerks' offices, the process of critically reviewing procedures in bankruptcy clerks' offices is underway and it is hoped that the efficiency of the clerks' offices will be improved, although this is a long term process. The bankruptcy rules are also being studied to ensure that they allow the maximum potential for labor saving procedures consistent with the statute and with no adverse effects on debtors or creditors.

QUESTION:

On page 6.29 you are requesting an increase of 491 probation and pretrial services positions and $6,967,000. If the courts were to reduce the level of supervision by 25 percent, would you expect serious adverse effects?

ANSWER:

Yes, we would anticipate serious adverse effects. Of persons released on bail by a judicial officer prior to trial, only 29% are assigned to pretrial services supervision. Much of this type of supervision is aimed at preventing both failures to appear and new crimes on release. The ability to supervise persons on release many times determines whether a defendant will be released or detained pending trial. For the 12-month period ending December 31, 1985, over 10 million dollars was spent on detention. The amount would have been higher without supervised release. The cost of detention is approximately ten times the cost of supervision. Reductions in supervision of pretrial releases would not yield savings.

In the supervision of persons on probation and parole, we have a system that minimizes staff effort for selected persons under supervision. Fully 60% of persons under supervision are classified as low activity supervision. This standard calls for one personal contact per quarter. To reduce supervision below this minimal level would be to second guess the judge and probation officer who have reviewed the facts in the case and determined that supervision is necessary for this individual.

The Federal Probation System manages its resources carefully to avoid unnecessary supervision. In a given year, 30% of all persons removed from supervision are early terminations.

QUESTION:

The Pretrial Services Act of 1982 permits the use of contracts to carry out pretrial services functions. To what extent are the courts using this method as a means to implement the Act, and how does the cost of contracting this function compare with providing the service in-house?

ANSWER:

Although the courts are aware of the contracting alternative, none have selected this option and the relative costs are unknown. There is a possibility of limited contracting to provide pretrial services for some services such as drug testing and our experimental law student program. We do use contract funds to provide pretrial services in outlying cities. We have not fully explored these options.

QUESTION:

What is the status of the effort to develop abbreviated pretrial interview and report forms for selected defendants, and would the use of these forms reduce the workload and, therefore, the need for additional staff?

ANSWER:

The existing interview form has undergone extensive review and field testing with the goal of reducing its requirements. A more abbreviated form is still under development with the assistance of the Federal Judicial Center. Success of this project depends upon a capacity to identify types of offenders who can be selected out for reduced handling. If they can be identified, we assume it will lead to a reduction in workload and staff. However, it is too early to make any projections. Data collection on the project is nearly complete, but data analysis will require further work.

QUESTION:

What is the status of the pilot test of using law and criminal justice students to provide pretrial services and to what extent would the need for full-time pretrial services officers and probation officers be reduced if students were used?

ANSWER:

The pilot test became operational in nine district courts early this year. A tenth will be starting soon. The test is scheduled to run for 1 year after which the results will be studied to determine the extent to which paraprofessionals can replace professionals.

QUESTION:

I understand that officials in some courts believe that paralegals could be used to perform selected pretrial services functions. Has this alternative been examined?

ANSWER:

We have not examined the use of paralegal personnel. That may follow from our study of the use of law and criminal justice students, cited in the previous answer. Our general experience is that paraprofessional personnel require close professional supervision, and are not suited for duties that require court appearances.

QUESTION:

On page 6.40, you are requesting 12 preargument attorneys and support staff for three circuits at a cost of $457,000. I understand that these circuits are presently using staff allocations from the staff attorneys and clerks' offices. In view of our efforts to reduce spending, why can't this function be continued by employing existing staff?

ANSWER:

If the preargument conference program in the Second, Sixth, and Eighth Circuits is continued by employing existing staff from the staff attorneys, clerks, and circuit executives' offices, these latter functions will not be properly staffed. Such an increase is fully justified in these three circuits since each circuit feels the case termination rate compares very favorably with the termination rate of a single judge. In terms of cost effectiveness, the overall preargument staff and office costs are much less than a fully staffed judge with chambers.

QUESTION:

On page 6.43 you are requesting an additional 20 positions and $403,000 for the National Court Library System. What is the justification for continuing to support the dramatic growth of this library system which did not exist up until a few years ago?

ANSWER:

When the court library program was authorized by Congress in fiscal year 1981, at the request of Congress, it was to be phased-in over a 5 year period. This 5 year period has now been expanded to 10 years. Essentially, library program growth has been halted in

fiscal year 1986, when the 20 requested positions were not forthcoming. Each year since its inception the program has been allowed to continue under the plans filed with the Congress for phased-in growth, and 10 to 20 positions have been approved. Now unless there is a renewal of the commitment to the library program and the sharing of legal research material, we will see an increase in pressure from the judges to again return to the pre-1981 era of emphasizing individual chambers lawbook collections with an escalation in lawbook costs much beyond the current requirements, as well as a need for additional space in chambers. When the program began, service was given to 1,061 judicial officers and staff. Today 1,454 offices and staff are served. Computer assisted legal research (CALR) terminals, which the library program supports, have jumped from 50 locations to 125; yet the library program has been halted in midstream. There has not been a dramatic growth in library personnel over the years, but there has been a dramatic growth in court personnel served through traditional legal research and CALR access. In the process of growth, the system has failed to keep its emphasis on centralizing and limiting specialized library materials. This process will be revised. Central and satellite libraries will be strengthened and the duplication of all but basic materials in individual chambers' libraries will be curtailed. It is time to, once more, emphasize the library program and the management of the Judiciary's legal research resources by a professional staff.

QUESTION:

Provide for the record the total cost of the National Court Library System.

ANSWER:

The total cost of the national court library system for fiscal year 1985 is estimated to be $9,120,000, as detailed below. This figure does not include the cost of lawbook continuations, the major portion of which is for judges' chambers.

Personnel compensation and benefits	$4,128,589
Operation and maintenance expenses	2,103,117
Office space rental (estimated)	2,889,000
Total	$9,120,706
Rounded	$9,120,000

QUESTION:

On page 6.49 you are also requesting an increase of six positions and $180,000 for court interpreters. What are the present requirements for interpretation services which have led you to ask for this increase in resources?

ANSWER:

In the six districts mentioned, the sums expended for free-lance interpreters in fiscal year 1985 is shown below. These needs for interpreters have increased annually. While some of the costs are for non-Spanish interpreters, 90% result from Spanish/English interpreted proceedings.

California (C)	$245,033
Florida (S)	220,988
New York (S)	151,216
Texas (S)	76,840
Texas (W)	27,461

There are no free-lance interpreters available in some of the Texas (W) divisions, but the interpreting load is high -- and growing. Positions are necessary to provide an in-house capability. The courts are finding it impossible to comply with the statutory requirements to provide certified interpreter services absent staff positions in the divisional offices. More positions can be absorbed and are easily justified for the major courts, but we are asking only for 6 positions at this time. It is estimated that a full-time interpreter costs approximately $13,800 less per year than free-lance services.

DEFENDER SERVICES

QUESTION:

On page 7.5 you are requesting a language change which would authorize standby counsel to assist the courts in criminal cases where the defendant has waived representation by counsel. How many of these appointments do you anticipate, and what will it cost?

ANSWER:

We anticipate up to 20 standby counsel appointments annually at a cost of up to $30,000.

QUESTION:

On page 7.9 you show an estimated cost of $33 million for fiscal year 1985 for Criminal Justice Act Panel attorneys. How did you calculate the adjusted figure and what were the obligations? What is the unliquidated balance of these obligations, and how old are they?

ANSWER:

The projected obligations of $33,245,000 for panel attorney compensation in fiscal year 1985 were based on the historical assumption that approximately 90 percent of the cases filed are actually paid. The sum of $18.4 million is unliquidated as of January 31, 1986 and represents cases which were filed as of October 1, 1984.

QUESTION:

Looking at the chart on page 7.12 which lists cost-per-case in federal defender organizations, it is apparent that as the number of persons represented goes up the cost per case often comes down. Why then should certain public defender offices with a high volume of activity, such as California, Central; Florida, Southern; and New York, Eastern and Southern, report such high costs per case?

ANSWER:

The assumption that the cost-per-case will decrease as the volume of appointments increases is not always correct. While this may be true in districts with increasing volumes of relatively uncomplicated cases, it is not necessarily true in districts such as New York Eastern and Southern, the Southern District of Florida and the Central District of California which are experiencing increases in the number of complex cases and lengthy trials. Large urban districts such as these often have more complex multiple defendant white collar crime and narcotics cases which significantly increase the workload of a defender organization and may require staff increases which often increase cost-per-case. Nevertheless, based upon currently authorized rates of compensation payable to private panel attorneys ($40 per hour for out-of-court work and $60 per hour for in-court work), we project that the fiscal year 1986 average cost-per-case of the defender organizations providing representation in these districts will be substantially less than the average cost-per-case for panel attorney representation in each of these districts.

FEES OF JURORS AND COMMISSIONERS

QUESTION:

Are all Federal District Courts now using six-man juries in civil trials? If not, please provide for the record a list of the district courts which are using 12-man juries.

ANSWER:

No. The following districts are using 12-man civil juries:

North Carolina (E)
North Carolina (W)
Virginia (W)
Mississippi (S)
Arkansas (W)
Utah
Georgia (M)

QUESTION:

The budget justifications indicate a requested increase in the mileage allowance to grand and petit jurors. The justifications state that information received from GSA indicates that the increases in gasoline prices over the last 12 months will necessitate an increase in the reimbursement rate. Since gasoline prices in recent weeks have declined, will such an increase in the mileage allowance be necessary?

ANSWER:

The projected increase in the reimbursable mileage rate for the use of privately owned vehicles for official business is based on an annual survey contracted out by GSA. The survey is conducted each year during July and involves a nationwide random sampling on the cost of such items as gasoline, tires, oil, routine maintenance, as well as new car prices, taxes, insurance, and vehicle depreciation. Based on the results of the most recent study, GSA has approved a mileage rate increase from 20.5 to 21.0 cents per mile effective this April. GSA will take another look at the reimbursable mileage rate, including the lower gasoline prices, this July.

QUESTION:

On page 8.8 of the justifications you indicate that jury trial days are expected to increase by approximately 4.6 percent in 1987, and that jury activity forecasts are based

on the number of criminal trials filed one year before. Have you considered the possibility the Justice Department may not prosecute as many cases in fiscal 1987 because of Gramm-Rudman?

ANSWER:

We understand from discussing this question with the Department of Justice staff that neither the Gramm-Rudman cuts in fiscal year 1986 nor the President's Budget in fiscal year 1987 will impair the main law enforcement functions of the Department of Justice. Any amendment to the President's Budget in the law enforcement function will impact our estimates. However, until these amendments are known, we have no basis for any changes to the fiscal year 1987 estimates of jury activity.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

QUESTION:

On page 9.8 you are requesting an additional $813,000 for telecommunication services, bringing the total for that item in your budget to $21,037,000. What part of this service is provided by GSA and what part by commercial telephone services? Would it cost more or less if you were to use commercial services exclusively?

ANSWER:

Exclusive of the purchase of equipment and the maintenance of purchased equipment, approximately 75 percent of telecommunications services are provided by GSA and 25 percent by commercial telephone services.

As to the relative cost of GSA versus commercial telephone services, three different categories of services should be considered — equipment, lease of telephone lines (dial tone), and long distance service. With respect to equipment, it is anticipated that by January 1, 1987, all telephone equipment leased through GSA throughout the Judiciary will be converted to owned equipment. With regard to lines, it is currently more cost effective for the Judiciary to lease telephone lines from GSA almost exclusively. Regarding long distance service, GSA has subsidized the cost of FTS service in many locations in the past. Therefore, it may cost less to have commercial service in a number of locations currently provided GSA service. These locations are now under study by GSA and, if it is determined to be more cost effective, will be converted to commercial service.

QUESTION:

Also on page 9.8 it appears that you expect to spend a total of $17 million on lawbooks in 1987. What steps can the Judiciary take to reduce this ever growing burden on your budget?

ANSWER:

The additional funds requested are based on a projected inflation rate of 4 percent. Actually, the cost of lawbook accessions and continuations has increased an average of 10 percent per year. The Judiciary can reduce the pressure on this procurement by emphasizing the use of central libraries, and once again focus on the continued growth and completion of the court library program. The court librarians are engaged in an ongoing effort in working with judges to review their current libraries to see how many subscriptions can be canceled, and to transfer existing materials to new judges in lieu of making new purchases. Librarians do have an impact on the procurement of books, which directly affects the cost of maintaining books. The library program, however, must be reemphasized in order to control and to avoid the duplication of lawbooks.

QUESTION:

On page 9.9 of the justifications you are requesting an increase of $2 million for the Drug Dependent Offenders program. What is the status of legislation to extend the authorization for this program?

ANSWER:

The authority of the Director to contract for drug aftercare treatment and urinalysis services expires November 1, 1987. The authorization for appropriations expires September 30, 1986.

S. 1236, a bill to amend title 18 of the United States Code to make minor and technical amendments to the Comprehensive Crime Control Act of 1984 contains an amendment at section 16 that would restore the Director's authority to contract for drug aftercare services. Congressman Kastenmeier's bill, H.R. 3541, bearing a similar title, would also restore the contract authority. Shortly the judiciary will request introduction of a bill that would restore the authorization to contract and extend indefinitely the appropriations authorization and leave the specific amounts to the appropriations process.

QUESTION:

Do you intend to submit a supplemental request for this program for fiscal year 1986 as mentioned on page 9.14?

ANSWER:

Yes. We anticipate doing so within the near future.

QUESTION:

Also on page 9.14 you are requesting an additional $550,000 for contractual social services under the pretrial services program. Why can't local community services be used for this purpose?

ANSWER:

Where local community services can be obtained at no additional cost to the government, that is done. Were this not so we would need substantially more funds than this request.

A substantial proportion of the funds are expended for short-term drug and alcohol inpatient detoxification and emergency residential facilities. Often these services are not available free.

QUESTION:

On page 9.15 you are requesting an increase of $8,325,000 for expansion of automated systems in Courts of Appeals and District courts, which commenced some 10 years ago. Does automation increase productivity, and can you demonstrate any savings in personnel to date as a result of this project?

ANSWER:

There have been savings in the automation of the high volume, highly repetitive operations such as the processing of Central Violations Bureau (CVB) data and bankruptcy notices. Because of automation, the work measurement formula for CVB has been revised to show a savings of 18 positions. The formula for courts served by the Bankruptcy Automation Noticing System (BANS) has been recently revised to reflect a savings of 34 positions as a result of being implemented in 16 courts.

Generally speaking, automation in the circuit and district courts allows the user to do more things, more efficiently. It does not save positions in the sense that staff is let go; it does save positions in the sense that requests for additional staff can be reduced. For example, the benefits of the automated jury system are obvious in that high volume repetitive tasks, such as preparing juror vouchers and juror checks are simplified. Data need be captured only one time (tangible clerical savings); jurors may be paid more often, and may serve less time through more efficient use of panels (intangible public good will).

QUESTION:

Regarding the District Court Automation Project (DCAP) and the Office Automation Project, how will the Courts' staffing be affected by these projects, and how many positions will be saved?

ANSWER:

The District Court Automation Project will not save any positions. In fact 35 systems administrator positions have been requested for the courts (one for each district court receiving a computer) to operate the computers and to use the software applications. We do, however, expect that the improvements brought about by the introduction of computers into the courts will reduce the amount of additional staff required.

The Office Automation Project is not expected to result directly in the savings of any positions.

QUESTION:

In addition to automation, what other steps can the courts take to reduce the workload in clerks' offices? Have you considered developing work standards for clerical operations which could improve efficiency, and, if so, would those standards be incorporated in the workload formulas?

ANSWER:

With the assistance of the Administrative Office, courts continue to review and refine their procedures to ensure that their procedures are as labor saving as possible. The courts can also assist in changing any rules, either Federal or Local, which mandate a wasteful or inefficient practice or procedure, such as the establishment of a local rule for the non-filing of discovery material in the district courts. There are no work standards for most activities in the clerks' offices because the courts are not production oriented, but service oriented so that measurement by specific work standards is not appropriate. Work standards are applied in some of the specific additive categories such as CVB and naturalization.

QUESTION:

With respect to those courts that have received the DCAP system and those courts that have received word processing systems, what studies have been made to determine if the systems are meeting user needs, and what were the results?

ANSWER:

The DCAP systems have been developed in close cooperation with committees of clerks that define requirements, and they have been installed and extensively tested in pilot courts. Before the systems are declared operational and expanded to additional sites, they are thoroughly reviewed by the customers.

With regard to word processing systems, we previously conducted feasibility studies on providing office automation equipment to law clerks, the potential for computer assisted legal research access from chambers, and the requirements for electronic communications among court functions. The results of these studies indicated a growing need.

The Office Automation Project feasibility study conducted by a contractor also addressed these questions. The results will be available in April, 1986. We anticipate the results to indicate that the basic needs have begun to be met, but that more automation is required.

We can anticipate these results because the management analysts continually discuss these issues with the users in their routine evaluations for new, replacement, and upgraded equipment. The analysts also accompanied the contractor's staff on the feasibility study.

QUESTION:

I understand that the new Bankruptcy Court Automation Project will not completely eliminate the need for the existing bankruptcy automated noticing system in larger courts. Please explain why duplicate systems will have to be maintained at some courts.

ANSWER:

Duplicate systems will not have to be maintained by the courts.

We are not aware of any requirements that the larger courts may have that the Center's Bankruptcy Court Automation Project will not meet. The Bankruptcy Automated Noticing System that was developed by the Administrative Office provides a centralized noticing function to take advantage of savings that result from the use of a high speed laser printer and from pre-sorted mail. This system has been in operation for several years and is producing over one million notices a month.

The Bankruptcy Court Automation Project (BANCAP) being developed by the Federal Judicial Center is a full docketing system that will be offered to the 16 courts now being serviced by the Bankruptcy Automated Noticing System (BANS). The Center developed system will be interfaced to the central laser printing facility if this continues to be the most economical way of producing high volumes of notices. Therefore, there will be no maintenance of duplicate systems in a court.

QUESTION:

The chart on page 9.17 shows that expenditures for Computer Assisted Legal Research will rise from $1 million in 1985 to $2.6 million in 1989. What impact will this system have on future procurement of lawbooks? Will you be able to realize a savings in the cost of maintaining libraries in judges chambers, or in any other area as a result of these services?

ANSWER:

Computer assisted legal research (CALR) is essentially just that - an aid to traditional legal research techniques, or an electronic index. The books will continue to be used, because it is not efficient to read cases online. What is efficient is to find citations, check cases and then print out only that material not otherwise conveniently available. Judges' chambers will continue to have core collections of current reporters and codes for reference. The savings in having convenient CALR available will be in the increased productivity and efficiency in the use of time of the judges and law clerks in the opinion writing process, by having CALR conveniently located in chambers. Librarians will continue to urge and assist judges in reducing chambers' collections to the bare essentials, but each chambers will always require some basic lawbooks and continuations. Having convenient access to CALR will help judges decide to eliminate little-used material, because so much more material will be available on the CALR databases. We, therefore, should see a streamlining of chambers collections if the librarians can continue the program of seeking cancellations, while the CALR program is expanding into chambers under Office Automation in the next four or five years.

QUESTION:

On page 9.19 you are requesting an increase of $300,000 for orientation expenses relating to word processors and personal computers, which includes $100,000 for travel. Why can't this training be provided by vendors or computer institutes to obviate the expenses of travel?

ANSWER:

Although minimal travel costs are associated with training that can be provided locally and such training will be made available to the extent possible, travel is in the best interest of the government when group orientation at a single location is more cost effective than individual orientation at decentralized locations. Examples of such situations include specialized systems administrator training for large intergrated systems which may be available only at the vendor's headquarters and operator training on specifically developed court-oriented applications of widespread utility. Some of the requested travel funds will be used by technically experienced court personnel as they travel to other courts as needed to conduct training and to provide automation assistance.

QUESTION:

Also on page 9.19 you are requesting an increase of $700,000 related to increased use of interpreters resulting from the Comprehensive Crime Control Act of 1984. Please explain the difference between this program and the increase you are requesting for court interpreters in the "Salaries of Supporting Personnel" item on page 6.49. Shouldn't the request for interpreter services be in only one appropriation item?

ANSWER:

The difference between programs is that 6.49 is the request for staff positions and 9.19 is money to pay free-lance fees. These positions in 6.49 will reduce our use of free-lance interpreters in those courts. However, in the remaining 90 district courts the interpreting load has increased and is projected to increase more. These funds are to pay services not provided by staff interpreters, either because there are no staff interpreters or not as many as needed. Interpreter services requests are in two appropriation items because of the difference in funding of staff positions and free-lance or contractual services.

Part of the increase is due to a projected increase in the free-lance fees which have been frozen at $175 per year since 1982. We need to increase them because the Executive agencies and international organizations with whom we compete for interpreters pay a $260 daily minimum.

SPACE AND FACILITIES

QUESTION:

Your budget request for space and facilities for fiscal year 1987 is $182.2 million. Next to salaries of personnel, this item represents the largest part of the budget request for the Courts of Appeals, District Courts, and other judicial services. What action have you taken to verify that you are paying only for space occupied by judicial offices, and that rates charged are proper?

ANSWER:

Fourth quarter billings are sent each year to the circuit executives and clerks of court, along with information to interpret the bills, for verification. Any discrepancies reported by these court officials are negotiated between the Administrative Office and the cognizant General Services Administrative (GSA) Regional Office. In the event billing discrepancies are not resolved at the regional level, they are then escalated to GSA's Central Office for resolution. For example, as a result of protracted negotiations and follow-up with GSA Region 4 and its Central Office during the period July 1984, to April 1985, approximately $1.3 million in overcharges were recouped from GSA for fiscal years 1983 and 1984 for space in the Miami, Florida Courthouse Annex which was either incorrectly classified or assigned.

We are in the process of automating the handling of rental bills which is expected to take approximately one year and will produce a prompt and accurate verification system at one central location.

QUESTION:

What action have you taken to identify court facilities that you do not need or that are under utilized?

ANSWER:

As a result of space surveys, the Judicial Conference approved the release of space to the General Services Administration at 18 locations in 1981 and at 4 locations in 1982.

QUESTION:

On page 10.6 you are requesting an increase of $26,705,000 for space rental costs -- an increase of about 19 percent. The justifications also show that about $5.6 million of this increase is attributable to new space, and thus about $21.1 million of the increase is attributable to currently occupied space. How much of the rental cost increase in currently occupied space is attributable to remodeled facilities versus a general rate increase?

ANSWER:

The $21.1 million increase requested for rent in currently occupied space represents the additional amount required based on the fiscal year 1987 SLUC estimate received from GSA. This estimate took into account space assigned to the Judiciary as of March 15, 1985, and thus did not include funds for any remodeling to be done to this space inventory.

QUESTION:

Please provide for the record the statement which shows what part of these increases are for government-owned buildings and what part are for leased facilities as well as the percentage increase in each category.

ANSWER:

The approximate distribution of the requested increase in rental costs is:

TOTAL:	$26,705,000	
Government-owned:	$22,699,000	85%
Leased:	$4,006,000	15%

QUESTION:

On page 10.8 you list a series of projects which you believe will be completed during fiscal year 1987. Has the estimated date of occupancy of any of these projects slipped, and, if so, can any part of the requested increase of $2,760,000 be deferred?

ANSWER:

Of the projects listed on page 10.8, four and a part of a fifth have been identified as likely to slip to fiscal year 1988 for occupancy with a resultant deferral of rental payments:

Richmond, VA	$ 76,440
Abingdon, VA	59,995
Charleston, WV	130,060
Los Angeles, CA	239,278
Seattle, WA (Part)	156,800
	$662,573

COURT SECURITY

QUESTION:

What is the criteria that the Marshals Service uses in assigning contract security officers to one court or another?

ANSWER:

The Marshals Service reviews a number of variables at each location where Court Security Officers (CSOs) are assigned. These variables include (1) the amount of court activity; (2) the number of sitting judges; (3) how judicial areas are configured within the building; (4) the number and location of public entrances; and (5) recommendations of the District Court Security Committees.

In addition, where resources permit, the Marshals Service conducts on-site reviews by security specialists to evaluate effectiveness and changing requirements.

QUESTION:

You are requesting an increase of $5,090,000 for 226 additional court security officers. This represents a 25 percent increase in the number of officers provided in the 1986 budget. How many additional court security officers would be needed to provide coverage to those courts currently without any court security officers?

ANSWER:

With the influx of 226 new CSO positions in fiscal year 1987, we anticipate that all existing or projected court facilities with sitting judges will have at least the minimum level of CSO coverage. However, it will be fiscal year 1988 until all facilities are staffed to the appropriate security level. In the meantime, there are 28 court facilities with sitting judges or newly designated judges that have no CSO coverage.

QUESTION:

Please provide for the record a list of locations and numbers of court security officers by location to support your 1987 request.

ANSWER:

The information follows. One should note, however, that the actual allocation may differ somewhat due to ever changing threat levels and security requirements.

PROJECTED COURT SECURITY OFFICER LOCATIONS IN FY 1987

USMS DISTRICT	NO.	NUMBER OF CSOs
N/AL	01	8
M/AL	02	5
S/AL	03	4
S/FL	04	21
N/MI	05	1
AK	06	7
AZ	08	17
E/AR	09	6
W/AR	10	7
N/CA	11	21
C/CA	12	30
CO	13	12
CT	14	11
DE	15	5
DC	16	23
N/FL	17	12
M/FL	18	27
N/GA	19	25
M/GA	20	7
S/GA	21	11
HI	22	9
ID	23	5
N/IL	24	17
S/IL	25	8
C/IL	26	10
N/IN	27	10
S/IN	28	12
N/IA	29	5
S/IA	30	4
KS	31	15
E/KY	32	6
W/KY	33	8
E/LA	34	14
W/LA	35	12
ME	36	7
MD	37	20
MA	38	20
E/MI	39	20
W/MI	40	10
MN	41	12
N/MS	42	7
S/MS	43	13
E/MO	44	15
W/MO	45	13
MT	46	7
NB	47	7
NV	48	17
NH	49	2
NJ	50	16
NM	51	10

USMS DIS.	NO.	NUMBER OF CSOs
N/NY	52	10
E/NY	53	24
S/NY	54	30
W/NY	55	8
E/NC	56	6
M/NC	57	6
W/NC	58	6
ND	59	7
N/OH	60	26
S/OH	61	12
N/OK	62	6
E/OK	63	4
W/OK	64	12
OR	65	15
E/PA	66	15
M/PA	67	14
W/PA	68	20
PR	69	23
RI	70	6
SC	71	18
SD	73	6
E/TN	74	8
M/TN	75	12
W/TN	76	7
N/TX	77	18
E/TX	78	14
S/TX	79	25
W/TX	80	25
UT	81	11
VT	82	3
E/VA	83	17
W/VA	84	10
E/WA	85	6
W/WA	86	20
N/WV	87	11
S/WV	88	10
E/WI	89	6
W/WI	90	4
WY	91	6
GUAM	93	1
VI	94	5
M/LA	95	3
E/CA	97	15
S/CA	98	12
TOTAL		1,114

QUESTION:

What is the criteria that the Marshals Service uses for the installation of X-ray equipment and magnetometers in the Federal courts?

ANSWER:

The Marshals Service has established a standard security policy which states that all court facilities with sitting judges should have these items available to screen persons entering the courthouse, much like the Capitol Building. Similar to the criteria for allocating CSOs, however, actual deployment and installation of these security items depends upon several factors: (1) the physical layout of the building; (2) the availability of CSOs for equipment operation; (3) the number and location of public entrances; (4) local court rules on visitor screening; and (5) recommendations of security specialists and District Court Security Committees.

QUESTION:

On page 11.7 you are requesting an increase of $496,000 for X-ray units and metal detectors. How many courts do not have this equipment at the present time, and will this request enable you to provide this equipment to all Federal courts?

ANSWER:

The amount of $496,000 is the requested increase for security equipment in general. Hence, this amount is not dedicated solely to X-ray units and metal detectors. Nonetheless, the Marshals Service has identified that among the 481 judicial facilities there are at present, 300 metal detectors at 207 judicial facilities and 132 X-ray machines at 97 judicial facilities. With the requested increase in fiscal year 1987, all current requests for these items will be satisfied.

QUESTION:

Please provide for the record the number and location of X-ray units and metal detectors which will be purchased with the funds requested.

ANSWER:

As indicated earlier, the $496,000 increase is not earmarked solely for X-ray units and metal detectors. The following list shows the known requests for these items. The exact numbers and locations cannot be identified at this time until the final impact of the Gramm/Rudman/Hollings Act is known.

The additional funding for fiscal year 1987 will be utilized to meet the most pressing needs that were not accommodated in 1986.

X-RAY MACHINES NEEDED

NUMBER	LOCATION	
1	Ft. Lauderdale, FL	
1	Roanoke, VA	
1	Abingdon, VA	
1	Danville, VA	
1	Big Stone Gap, VA	
1	Charlottesville, VA	
1	Harrisonburg, VA	
1	Lynchburg, VA	
1	Boise, ID	
1	Cheyenne,WY	
1	Casper, WY	
1	San Diego, CA	
1	Baton Rouge, LA	
1	Austin, TX	
1	Sioux Falls, SD	
1	Cape Girardeau, MO	
1	St. Louis, MO	(With 2 Table Extensions)
1	Billings, MT	
1	Great Falls, MT	
1	Hammond, IN	
1	South Bend, IN	
1	Ft. Wayne, IN	
1	Lafayette, IN	
1	Grand Rapids, MI	
1	Kalamazoo, MI	
1	Marquette, MI	
2	McAllen, TX	
1	Laredo, TX	
1	Corpus Christi, TX	
1	Brownsville, TX	
1	Lafayette, LA	
1	Kansas City, KS	
1	Charleston, WV	
1	Parkersburg, WV	
1	Huntington, WV	
1	Beckley, WV	
1	Bluefield, WV	
1	Tacoma, WA	
1	Aberdeen, MS	
1	Oxford, MS	
1	Greenville, MS	
1	St. Thomas, VI	
1	Elkins, WV	
1	Clarksburg, WV	
1	Wheeling, WV	
1	Ashville, NC	

NUMBER	LOCATION
1	Charlotte, NC
1	Augusta, GA
1	Brunswick, GA
1	Newark, NJ
1	Phoenix, AZ
1	Alexandria, VA
1	Norfolk, VA
1	Newport News, VA
3	Richmond, VA
1	Los Angeles, CA
1	Galveston, TX
1	Alton, IL
1	Tulsa, OK
2	Chicago, IL
1	Spokane, WA
1	Binghamton (Not needed until CSO assigned)
1	Jackson, MS
1	Biloxi, MS
1	Hattiesburg, MS
1	Aiken, SC
1	Anderson, SC
1	Charleston, SC
1	Columbia, SC
1	Florence, SC
1	Greenville, SC
1	Rock Hill, SC
1	Spartenburg, SC
1	Cleveland, OH
1	Jackson, TN
1	Fargo, ND
1	Bismarck, ND
1	Louisville, KY
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NEEDED METAL DETECTORS

In addition to newly requested metal detectors, this listing also contains addresses of facilities who currently have older type technology detectors which will be replaced.

LOCATION	NUMBER
Glynco, GA 31524	1
Hyattsville, MD 20782	1
St. Louis, MO 63101	1
South Bend, IN 46624	1
Hammond, IN 46320	1
Ft Lauderdale, FL 33301	1
Yakima, WA 98907	1
McAllen, TX 78501	1
Houston, TX 77002	1
Brownsville, TX 77002	1
Miami, FL 33128-7786	1
Detroit, MI 33128-7786	1
St. Thomas, Virgin Islands	1
San Juan, PR 00904	1
Utica, NY 13501	1
New Haven, CT 06504	1
Concord, NH 03301	1
Trenton, NJ 08608	1
Dallas, TX 75242	1
Fort Worth, TX 76102	1
Tyler, TX 757.0	1
Oxford, MS 38655	1
Aberdeen, MS 39730	1
Jackson, MS 39205	1
Biloxi, MS 39533	1
Muskegee, OK 74401	1
Kansas City, MO 64106	1
San Diego, CA 92189	3
Las Vegas, NV 89101	1
Reno, NV 89509	1
Cincinnati, OH 45201	2
Cleveland, OH 44114	2
Minneapolis, MN 55401	1
Wilmington, NC 28401	1
Greensboro, NC 27402	1
Winston-Salem, NC 28234	1
Norfolk, VA 23501	1
Alexandria, VA 22313	1

LOCATION	NUMBER
Charleston, WV 25330	1
Huntington, WV 25714	1
Parkersburg, WV 26101	1
Elkins, WV 26241	1
Clarkburg, WV 26301	1
Lexington, KY 40501	1
St. Paul, MN 55101	1
Milwaukee, WI 53202	1
Chicago, IL 60604	1
Springfield, IL 62701	1
Peoria, IL 61602	1
Danville, IL 61832	1
Columbia, SC 29201	1
Alton, IL 62002	1
Benton, IL 62812	2
Grand Rapids, MI 49503	2
Greenville, SC 29603	1
Aiken, SC 29801	1
Florence, SC 29503	1
Charleston, SC 29403	1
Raleigh, NC 27611	2
Fayetteville, NC 28302	1
San Francisco, CA 94102	4
Beaumont, TX 77704	1
Tampa, FL 33601	1
Jacksonville, FL 32201	2
Erie, PA 16501	2
Springfield, MA 01101	2
Burlington, VT 05402	2
Corpus Christi, TX 78403	2
Galveston, TX 77553	2
Laredo, TX 78040	2
Amarillo, TX 79105	2
Lubbock, TX 79401	2
Del Rio, TX 78840	1
Pecos, TX 79701	1
Midland, TX 79701	1
Texarkana, TX 75501	1
Greenville, MS	1

LOCATION	NUMBER
Hattiesburg, MS 39401	1
Savannah, GA 31412	1
New Orleans, LA 70130	1
Lafayette, LA	1
Philadelphia, PA 19106	2
Denver, CO 80294	2
Baltimore, MD 21201	1
Scranton, PA 18501	1
Washington, D.C. 20001	2
Sioux Falls, SD 57102	1
Pierre, SD 57501	1
Rapid City, SD 57701	1
Roanoke, VA 24009	1
TOTAL	118

QUESTION:

On page 11.7 you are requesting an increase of four positions and $384,000 for administrative support. I understand that you already have 15 positions in this area. In view of our efforts to reduce expenditures, couldn't you administer this program within the present level of resources?

ANSWER:

Management of the current court security program involves many of the same functions as running a small Government agency. With over 800 CSOs and 481 court facilities to secure, the Marshals Service is already devoting more than the requested number of positions to this program. The additional positions are needed to improve efficiency in the program and should pay for themselves in savings in the long run.

QUESTIONS SUBMITTED BY MR. EARLY

SALARIES OF SUPPORTING PERSONNEL

QUESTION:

Assuming the Committee approves your $1.2 million supplemental request for 200 additional permanent deputy clerk positions to staff bankruptcy offices in District Courts — do you plan to, or could you, have all 200 on board by July 1?

ANSWER:

The additional deputy clerks could come on board approximately 3 to 4 weeks after approval. Assuming the supplemental request is approved by early June, the positions would be filled by July 1 as planned.

QUESTION:

What did you base your projected 4% increase in civil and criminal case filings on?

ANSWER:

While the projected increase in total filings is nearly 4%, this is attributed solely to civil filings; there is no increase projected for criminal filings. Civil case filings are expected to increase steadily as they have in recent years; for instance, diversity of jurisdiction cases tend to increase with the general population and with increased business activity. There are no significant increases projected in debt recovery (i.e. student loan default) or Social Security cases for 1987.

SPACE AND FACILITIES

QUESTION:

How has GSA justified to you their SLUC increase of almost 20% or $26,705,000?

ANSWER:

No explanation was provided beyond the May 20, 1985 letter which transmitted fiscal year 1987 SLUC estimates. The transmittal letter stated that the 1987 rates were, on the average, 7.5 percent higher than the 1985/1986 rates, although this percentage increase might vary among the various buildings and agencies.

COURT SECURITY

QUESTION:

You are requesting an $8,608,000 increase and 226 additional court security officer positions in fiscal year 1987 (presently 888 court security officers) and will request 226

additional positions in fiscal year 1988 in accordance with the Court Security Committees' security plans. Would you briefly describe these plans?

ANSWER:

Our guide to implementation of the Judicial Facility Security Program is the Report of the Attorney General's Task Force on Court Security, as adopted by the Chief Justice and the Attorney General, and approved by the Judicial Conference at its meeting in March 1982. Major recommendations of that Task Force Report called for the United States marshals to conduct comprehensive court security surveys of federal judicial facilities in their districts and develop a written security plan for each facility based on these surveys. The written security plan consists of a delineation of the entire court security system, including appraisal of risk environment and identification of appropriate security responses.

The Task Force Report also called for each district to establish a court security committee consisting of the chief judge of the district, the United States marshal, the United States attorney, the clerk of court, and a representative of the General Services Administration. The Court Security Committee is responsible for determining the level of security required at each facility and the resources necessary to achieve that level. In developing the budget request for 1987, the court security committees requested a total increase of 453 court security officers based on their perceived needs. We propose to phase in this number during two years - 226 in 1987 and 227 in 1988.

QUESTION:

How many districts are currently without officers or coverage?

ANSWER:

There is only one district without any court security officers. However, there are 28 court facilities with sitting or newly designated district judges who have no court security officer coverage. In addition, a number of other judicial officers - magistrates and bankruptcy judges - are serving at facilities with no coverage. The number will increase as new judicial officers are appointed.

QUESTION:

Have there been many or any incidents where the level of safety of federal judges, magistrates, jurors, witnesses, etc. has been in jeopardy due to lack of court security officers?

ANSWER:

We are not aware of any recent incidents where the level of safety of federal judges, magistrates, jurors, witnesses, etc. has been in jeopardy due to lack of court security officers. However, where court security officers are not in place, we have no idea how many times persons involved in the judicial process may have been placed in jeopardy without it developing into an incident.

As recently as February 25, 1986, court security officers on duty at a Federal courthouse detected a person attempting to enter the building while armed with a sawed-off shotgun and an automatic pistol. When challenged, he pointed the pistol at one of the officers and pulled the trigger several times. Fortunately, the weapon misfired. Had court security officers not been on duty he would have had free access to the building and everyone there would have been in jeopardy.

The following information prepared by the United States Marshals Service is a fiscal year 1985 statistical report of weapon detections and arrests by court security officers from 10 judicial districts. This is a representative sample of districts that routinely use electronic security screening equipment at their judicial facilities. The weapons detected are both legally and illegally possessed firearms, knives, and other instruments that could be used to inflict bodily harm. The arrest statistics represent both court security officer apprehensions, and court security officers assisting other law enforcement officers in making arrests.

Weapon Detections and Arrests
Fiscal Year 1985

District	Weapons Detected	Firearms	Knives	Other	Arrests
California (E)	3,463	910	2,551	2	10
Oregon	1,132	217	915	—	2
Nevada	1,841	200	921	720	—
Louisiana (E)	4,056	156	3,900	—	38
Mississippi (S)	168	37	125	6	7
Louisiana (W)	393	54	326	20	8
Pennsylvania (E)	4,784	1,054	2,572	1,158	5
Alabama (S)	142	70	72	—	6
Michigan (E)	4,129	364	3,765	—	7
Florida (N)	1,800	165	1,303	332	—

SALARIES OF JUDGES

QUESTION:

As you know, on January 1, 1986, the law which exempted senior judges from paying social security taxes expired. What impact has this had on your caseload and backlog so far?

A recent New York Times article states that more than half of the nation's 273 senior Federal judges have stopped working. Is this true?

ANSWER:

It is too early to tell what impact the payment of social security taxes by senior judges will have on the disposition of courts' caseload, although the long-term loss of the substantial judicial experience and energies that have been traditionally lent by senior judges is plainly an alarming prospect. The statement in The New York Times, however, is essentially correct and highlights the problem of judicial resources confronting the courts at the moment.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

QUESTION:

You are requesting an $8,625,000 increase for the expansion of the court automation program. Do you still anticipate completing the program by FY89? Do you anticipate that the benefits of this program, such as electronic docketing, indexing etc.. will ever result in a leveling-off of the needs for additional personnel in certain areas?

ANSWER:

The initial versions of the Five Year Plan for Automation in the Federal Courts prepared in 1984 projected that the major components of the project would be completed by FY89. That plan was very ambitious and was predicated upon approval of significant increases in personnel and money, which have not been completely realized. Additionally, the plan did not allow (nor realistically could it) for any of the myriad of problems associated with an effort of this magnitude. The Five Year Plan is updated and approved by the Judicial Conference each year to reflect necessary adjustments in priorities and available resources. Current planning envisions that all district courts will have a hardware system installed by FY89, and bankruptcy courts will have computers in place by FY90. Some of the applications software will continue to be installed beyond FY90.

Automation will affect almost every operation in the court. It will increase productivity in some areas, provide the means of undertaking new tasks or providing new services not possible under a manual system, and will in some cases add new workloads. In general, the goal of automating the courts is to improve management and services in the areas of jury, financial, and case management. Automation will provide the courts a more effective way of managing the flow of information and provide a means of dealing with rapid increases of workload or unusual situations, such as the filing of 2,800 asbestosis cases. Automation of the courts may in the future allow the courts to accept additional workloads without adding additional staff.

QUESTION:

You explain that approximately 71% of the increase in your fiscal year 1987 funding request is for the cost of maintaining the current level of services and for the restoration of adjustments to base. Could you tell us how you have tried to rationalize or make more efficient court services with last year's budget? What new ideas do you have for using your fiscal year 1987 budget as efficiently as possible?

ANSWER:

Because the courts have been provided with less positions than would be needed under the work measurement formulas for several years, they are constantly trying to streamline their procedures, and the Administrative Office has assisted in this effort. Examples of areas where the courts are providing more efficient court services are procurement where clerks of court are now procuring needed items directly; communications, where clerks are beginning the process of replacing phone systems; court reporters, where courts are better utilizing their available reporters; and case management where more efficient practices are resulting in more expeditious disposition of cases. We are confident that courts will continue these efficiency improvements in fiscal year 1987.

QUESTION:

You are requesting a $2 million dollar increase in the program for drug dependent offenders. Is this solely due to an increase in clients or has the cost of services also increased?

ANSWER:

As set forth on pages 9.13 and 9.14 of the 1987 budget justifications for the Judiciary, the number of persons receiving drug treatment increased 17 percent in the period from June 1984 to June 1985. The number of urine specimens tested during that 12-month period represented a 27 percent increase over the year before. By the end of fiscal year 1986, we project there will be 7,100 persons in treatment. As of December 31, 1985, the figure stood at 6,731, suggesting that the projection is on target.

The cost of services has also increased. In 1986, the average per specimen cost for a urine test is $3.86, an increase of 9 percent over the previous year. For 1986, the average unit price is remaining stable for individual counseling, one of our primary treatment services, however, we anticipate a 7 percent increase for fiscal year 1987.

WEDNESDAY FEBRUARY 26, 1986.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

WITNESSES

HOWARD T. MARKEY, CHIEF JUDGE
FRANCIS X. GINDHART, CLERK

Mr. **DWYER**. We shall next consider the fiscal year 1987 budget request for the United States Court of Appeals for the Federal Circuit. The request is $7,290,000 which represents an increase of $1,981,000 above the amount appropriated for fiscal year 1986 adjusted for sequestration under Public Law 99-177.

We shall insert the justifications in support of this request into the record at this point.

[The justifications follow:]

THE JUDICIARY

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Summary of Requirements

Appropriation 1986 (enacted to date)	$5,500,000
Sequestered pursuant to P.L. 99-177	-191,000
Budget Authority, 1986	5,309,000
1987 budget estimate	7,290,000
Proposed Increase	1,981,000

Appropriation Language

United States Court of Appeals for the Federal Circuit

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, [$5,500,000] $7,290,000

THE JUDICIARY

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Summary of Requirements

Appropriation 1986 (enacted to date)	$5,500,000
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Appropriation Language

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, [$5,500,000] $7,290,000

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page No.	Summary of changes:	1987 Request	
		Perm. Pos.	Amount
	Appropriation 1986 (enacted to date)	87	$5,500
	Sequestered pursuant to P.L. 99-177	...	-191
	Budget Authority, 1986	87	5,309
Page No.	Adjustments to base and built-in changes:		
2.5	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+ 191
2.5	2. Cost of within-grade salary advancements	...	+ 37
2.6	3. Social Security taxes	...	+ 37
2.6	4. Rental of space	...	+1,151
2.6	5. Contract rates, postage, printing, and charges for services and supplies	...	+ 22
	Subtotal, adjustments to base and built-in changes	...	+1,438
	Program Changes:		
2.6	6. Additional personnel	+ 1	+ 20
2.6	7. Supporting personnel for senior judges	+ 4	+ 137
2.7	8. Additional secretary to the chief judge	+ 1	+ 30
2.7	9. Word processing equipment	...	+ 105
2.7	10. Telephone systems acquisition	...	+ 95
2.7	11. Equipment, furniture and furnishings for replacement judges	...	+ 156
	Subtotal, program changes	+ 6	+ 543
	Total increases requested	+ 6	+1,981
	Total appropriation requested, 1987	93	$7,290

Mr. DWYER. It is a pleasure to welcome back Howard T. Markey, Chief Judge of the United States Court of Appeals for the Federal Circuit. Judge Markey, please proceed with your statement at your own pace.

Judge MARKEY. Thank you, Mr. Chairman.

If the Chairman pleases, I should like the honor of introducing Mr. Francis X. Gindhart, who is our new Clerk of the Court. He is replacing Mr. George Hutchinson who has appeared with me here in the past.

BIOGRAPHICAL SKETCH OF FRANCIS GINDHART

Mr. DWYER. Without objection, we shall insert into the record at this point, the biographical sketch of Mr. Gindhart.

[The biographical sketch follows:]

BIOGRAPHICAL DATA—FRANCIS X. GINDHART

On September 3, 1985, Francis X. Gindhart was appointed as Clerk of the United State Court of Appeals for the Federal Circuit succeeding George E. Hutchinson. Mr. Gindhart is a native of Philadelphia, where he received his A.B. degree from LaSalle University, and his law degree from the University of Pennsylvania School of Law. He is admitted to practice in Pennsylvania and the Distrit of Columbia. Mr. Gindhart served in the Judge Advocate General's Corps of the U.S. Army, in Vietnam and elsewhere. He served as a Reporter of Decisions of the U.S. Court of Military Appeals, where he was appointed Clerk of that Court in August 1976, serving in that capacity until May 1981. At that time he was appointed Chief Deputy Clerk for the U.S. Court of Appeals for the Second Circuit in New York and served there until his appointment as the Chief Deputy Clerk of the U.S. Court of Appeals for the Federal Circuit in 1985. Mr. Gindhart is a Fellow of the Institute of Court Management. He is married and has two children, a girl—Maria and a boy—Steven. He resides in Burke, Virginia.

GENERAL STATEMENT

Judge MARKEY. Secondly, Mr. Chairman, I have submitted a prepared statement and would request that it be entered as a part of the record of the hearing here this afternoon.

Mr. DWYER. Fine.

[The prepared statement follows:]

STATEMENT
of
HOWARD T. MARKEY
Chief Judge
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
before
THE SUBCOMMITTEE
COMMITTEE ON APPROPRIATIONS
House of Representatives
26 February 1986

It is a pleasure, Mr. Chairman, to appear before the Subcommittee for the fourteenth time, and for the fourth time on behalf of the United States Court of Appeals for the Federal Circuit.

Throughout the past fourteen years, the Subcommittee's oversight and support have greatly aided our predecessor court and the present court in maintaining an average interval from filing to decision of seven months. We believe, Mr. Chairman, that the court has reciprocated the Subcommittee's understanding and support. As the record will reflect, on the first of those fourteen appearances, the Subcommittee was requested to reduce the budget earlier submitted. Thereafter, requested increases have been limited to those that are mandatory and those that were absolutely required to enable the court to perform its part in administering justice. For example, the judges of the court have continued to employ only one secretary and two law clerks. The court does not have its slip opinions printed, but employs a photocopy from which copies are offset. The court has limited its requests for increases in its staff to only four positions in the four years of the court's existence, and did so in the face of the massive workload increase described below. The court has kept the Subcommittee informed of changing needs between hearings and has carefully safeguarded the funds appropriated.

The number of appeals docketed in the last three calendar years has grown from 900 to 1126 to 2472. To the current almost 2500 appeals must be added 3000 motions per year and hundreds of Petitions, many of which require as much judge and staff time and work as an appeal. Concurrently with this trebling of our workload, the court has been operating with vacancies in two of its twelve judgeships.

Whether the court will be able to continue avoiding the "justice delayed is justice denied" syndrome becomes problematical if current budget constraints should continue to deny the tools needed to do the constantly growing job. Though the Third Branch as such cannot expect to be immune, a court has only one program - the fair and just resolution of disputes brought to it. That program was diminished by two substantial reductions in the requested budget for the current year. This Subcommittee mandated a reduction of $220,000 and Public Law 99-177 sequestered a further amount of $191,000.

The appropriation requested for fiscal year 1987 is $7,290,000 an increase of $1,981,000 over the $5,309,000 adjusted budget authority for the current year. The increase includes a return of the $191,000 sequestered in FY 86 under P.L. 99-177. The increase in non-mandatory items, however is only $154,000.

The greatest segment by far of the increase is in GSA's rental figure of $2,371,000, an increase of $1,151,000 or 51%. As you know, Mr. Chairman, under a system in which the government pays rent to itself, we are mere messenger boys on this item. I cannot and would not attempt to justify a rent of over $2,000,000 for the four floors we occupy in our building.

The increase in personnel costs includes mandatory within grade increases, 1 new position in the Clerk's office, 1 conversion of a temporary to permanent position in my office, and four staff positions for two judges expected to take Senior Status.

The mandatory increase of $37,000 in FICA payments is the largest share of the increase in personnel benefits.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Salaries and expenses	87	$5,500	87	$6,747	93	$7,290	+ 6	$+ 543
Sequestered pursuant to P.L. 99-177	...	-191	...	.....	...	.....	...	.....
Total obligations	87	$5,309	87	$6,747	93	$7,290	+ 6	$+ 543

Object Classification
(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
11	Personnel compensation	$3,293	$3,489	$+ 196
12	Personnel benefits	419	479	+ 60
21	Travel and transportation of persons	33	33	...
22	Transportation of things	3	3	...
23	Standard level user charges	1,220	2,371	+1,151
	Communications, utilities, and miscellaneous charges	166	277	+ 111
24	Printing and reproduction	25	30	+ 5
25	Other services	152	162	+ 10
26	Supplies and materials	27	32	+ 5
31	Equipment	162	414	+ 252
	Subtotal	5,500	7,290	+1,790
	Sequestered pursuant to P.L. 99-177	-191	...	+ 191
	Total obligations	$5,309	$7,290	$+1,981

Relation of Obligations to Outlays

(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net	$5,500	$-191	$5,309	$7,290	$+1,981
Obligated balance, start of year	352	...	352	454	+ 102
Obligated balance, end of year	-468	14	-454	-621	- 167
Outlays	$5,384	$-177	$5,207	$7,123	$+1,916

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions	87	93	+ 6
Total compensable workyears:			
Full-time equivalent employment	87	93	+ 6

General Statement

The United States Court of Appeals for the Federal Circuit has exclusive jurisdiction of appeals from final decisions of all federal district courts in cases arising under 28 USC 1338; 35 USC 145, 146, and 28 USC 1346(a)(2); final decisions of the United States Court of International Trade; final decisions of the United States Claims Court; final determinations of the United States International Trade Commission relating to unfair practices in import trade made under 19 USC 1337; findings of the Secretary of Commerce under headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States relating to importation of educational or scientific instruments and apparatus; final orders or decisions of the Merit Systems Protection Board and final decisions of all agency Boards of Contract Appeals; and exclusive jurisdiction over appeals from final decisions of the Patent and Trademark Office tribunals on patent applications and interferences, trademark applications and interferences, cancellations, concurrent uses, and oppositions; and appeals under section 71 of the Plant Variety Protection Act of 1970.

The Court also has exclusive jurisdiction of: (1) appeals from interlocutory orders or decrees in cases where the Court would have jurisdiction of the appeal; and (2) appeals from judgments in civil actions for patent infringement otherwise appealable to the Court and final except for accounting. The Court may, in its discretion, permit an appeal from an interlocutory order of a judge who certifies that there is a controlling question of law and a substantial ground for difference of opinion thereon, and that an immediate appeal may materially advance the ultimate termination of the litigation.

References to basic statutory authorities are contained in the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Justification of Changes

An appropriation of $7,290,000 is requested for fiscal year 1987, which represents an increase of $1,981,000 over the appropriation for 1986. Details of the increase in requirements for fiscal year 1987 follow.

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($191,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $191,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Cost of Within-Grade Salary Advancements ($37,000)

All graded personnel in the Court of Appeals for the Federal Circuit who receive a satisfactory performance rating, pursuant to the salary plan for Judiciary personnel, are eligible for periodic step increases in compensation corresponding with those provided by Chapter 53 of Title 5, United States Code. It is estimated that those entitled to salary advancements, including any additional step increases that may be granted in recognition of high quality performance, will receive advancements costing $37,000 during fiscal year 1987 ($34,000 for personnel compensation and $3,000 for related benefits). The estimate is based on past experience and takes into account savings due to turnover of personnel and the filling of vacancies at lower rates of pay.

Item 3. Social Security Taxes ($37,000)

The sum of $37,000 is requested as a result of the passage of the "Social Security Amendments of 1983," Public Law 98-21, approved April 20, 1983. This legislation made certain changes affecting the financing of the Social Security System. The sum requested includes funds for two provisions of the Social Security law: (1) the wage base (maximum) upon which the Social Security taxes are assessed is projected to increase to $42,000 (the budget currently contains funds for a base of $37,800); and (2) the tax rate will be increased from 7.0 to 7.15 percent. This percentage increase is for Medicare and impacts on all judiciary employees (except senior/retired judges).

Item 4. Rental of Space ($1,151,000)

The sum of $1,151,000 is mandatorily requested for fiscal year 1987 to cover increases in standard level user charges (SLUC) assessed by the General Services Administration (GSA). The rental cost for space occupied by the Court of Appeals for the Federal Circuit will increase from $1,220,000 to $2,371,000.

Item 5. Contract Rates, Postage, Printing, and Charges for Services and Supplies ($22,000)

An additional $22,000 is required in fiscal year 1987 to cover increased charges for other services and supplies. Increases in expenditures are estimated at a rate of 4 percent with the exception of printing in which a 12 percent rate increase is anticipated.

	FY 1986 Amount Available	Projected Cost Based on Inflation	Increased Amount
Rental of equipment (office and copy)......	94,000	98,000	4,000
Telecommunication services including FTS..........	43,000	45,000	2,000
Printing and reproduction...................	25,000	28,000	3,000
Other Services...........	152,000	158,000	6,000
Supplies and materials...	27,000	28,000	1,000
Equipment (including lawbooks)..............	162,000	168,000	6,000
Total...............			$22,000

Item 6. Additional Personnel (1 position, $20,000)

It is requested that funding be provided for an additional deputy clerk in the Clerk's office. The court is experiencing significant increases in its workload. A total of 1,288 new appeals were docketed during 1984, an increase of 38.5 percent over the 930 appeals docketed in 1983. New appeals are currently being filed at an annual rate of 1,400. This increase in caseload is expected to continue and, therefore, an additional deputy clerk is necessary to handle the additional caseload. The sum of $20,000 is requested for this position: ($16,000 for personnel compensation, $3,000 for related benefits and $1,000 for related equipment).

Item 7. Supporting Personnel for Senior Judges (4 positions, $137,000)

The sum of $137,000 is requested to provide supporting personnel, 2 secretaries and 2 law clerks, in anticipation of two of the five judges currently eligible taking senior status during fiscal year 1987 ($120,000 for personnel compensation, $13,000 for related benefits and $4,000 for equipment).

Item 8. Additional Secretary to the Chief Judge (1 position, $30,000)

It is requested that an additional secretarial position be provided so that the Chief Judge of the Court will have a third secretary, as is the case in all other United States Courts of Appeals. The sum of $30,000 will be required for this position: ($26,000 for personnel compensation and $4,000 for related benefits).

Item 9. Word Processing Equipment ($105,000)

The sum of $105,000 is requested to provide the judges and staffs of this court with updated automated word processing systems. Equipment now in place has become outmoded in light of technological advancements. Updated equipment will provide savings in the form of increased productivity and an increased capability of dealing more effectively with complex cases requiring extensive editing of opinions.

Item 10. Telephone Systems Acquisition ($95,000)

Prior to deregulation and divestiture, telephone equipment and systems design, leasing and management were virtually the exclusive province of one vendor, American Telephone and Telegraph (AT&T). The Continuity of Services agreement, which currently provides this court with leased and additional equipment, and maintenance and follow-on services (i.e., moves or rearrangements) will expire on December 31, 1986 and the General Services Administration has notified the Administrative Office of the United States Courts that they have no intention of renewing the services agreement. Failure to procure a new telephone system will result in all equipment and services becoming the sole responsibility of this court. The equipment currently in use is obsolete and without a services agreement, AT&T is not bound to keep costs within the provisions of the current contract. It will therefore be much more cost effective and user efficient to procure a new phone system.

Item 11. Equipment, Furniture and Furnishings for Replacement Judges ($156,000).

The sum of $156,000 is requested in anticipation of the need to furnish equipment and furniture to two new judges appointed in place of judges taking senior status and continuing to function with assigned equipment and furniture.

The largest share of the non-mandatory increase is under Communications, Utilities. It is vital that the court acquire the word processing equipment the court was denied last year. To have a chance of meeting our increased workload, the court must increase its productive capacity. This equipment enables law clerks to access the central processing unit in a chambers. It thus avoids the need to employ a secretary, the only feasible alternative. The equipment is therefore exceedingly cost-effective.

The increases under Equipment, in addition to the 4% inflation factor and the needs of two new judges, includes $95,000 for the mandatory purchase of telephones.

The $191,000 sequestered in FY 86, as will be noted, has been included in this FY 87 request. The court was able to absorb this amount (albeit with the diminished capacity indicated above) because one judge delayed taking Senior Judge status (he has now done so) and another judge suddenly resigned, because new judges were not immediately appointed, and because the court cancelled its planned sitting outside Washington (a practice indicated as desirable and expected in the legislative history of the Act that created the court). If required to absorb reductions in its present budget request, the court will of course attempt to do so. Failure to fill our two vacancies will provide lapse money, but at a cost of continuing a 1/6 diminution in judge availability. We can again forego all travel. We have considered a request to the judges to terminate their outgoing clerks one month early. Other draconian steps may be taken, but none without a corresponding reduction and delay in the court's administration of justice.

I would be glad, Mr. Chairman, to attempt answer to any question you or any Member may wish to ask.

Mr. **Dwyer**. Then proceed at your own pace, Judge Markey.

Judge **Markey**. All right, sir. I would like to comment briefly on the statement and then, of course, I will be open to questions.

It is a pleasure, Mr. Chairman, to appear here for the 14th time; the 4th time representing the Court of Appeals for the Federal Circuit. We have enjoyed the support of the Committee and we think we have reciprocated that support in the manner in which we have managed the appropriations approved by this Committee.

For example, each of our judges continues to employ only one secretary and two law clerks. We do not print our slip opinions, but have them photocopied. We have limited our increase in court staff to four positions in four years. We did so in the face of a massive workload increase.

That increase, Mr. Chairman, has run from 900 in our first year to 1,126 appeals docketed in our second year, to 2,472 appeals docketed last year. To that workload must be added some 3,000 motions, many of which take as much judge time and staff time as any appeal.

We are currently operating with two vacancies in our judgeships. We are anxious, Mr. Chairman, to point out that our budget request appears awesome: $7,290,000, an increase of $1,981,000 over the $5,390,000 adjusted budget authority for the current year.

The increase in nonmandatory items, however—the items which we use to operate the court—is only $154,000. Obviously, the greatest segment of the increase is GSA's rental figure of $2,371,000, an increase of $1,151,000 or 94 percent.

As you know, Mr. Chairman, under a system in which the Government pays rent to itself, we are mere messenger boys on this item. I cannot and will not attempt to justify a rent of $2 million for the four floors we occupy in our building.

The increase in personnel costs includes, of course, all of the mandatory costs. Our new positions requested is one in the Clerk's office and one a conversion of a temporary to permanent position in my office. We also budgeted for four staff positions for two judges expected to take senior status during FY '87.

The statement, Mr. Chairman, then touches on the mandatory increase for FICA payments.

The largest share of that $154,000 I mentioned comes to about $105,000. Probably if I had to choose that would be the one item I would emphasize here this afternoon. It covers the word processing machines that we had to abandon our reach for last year because of the cutback mandated by this Subcommittee and by the sequestered amount. To have a chance, even a chance, of meeting our increased workload and continue to maintain our seven-month interval from filing to decision—an interval the maintenance of which makes us quite proud, an interval which required the judges to increase their own performance by 76 percent in one year to meet—we really do need these particular machines.

Not only that, Mr. Chairman, but that increase in productive capacity is achieved on the most cost-effective basis by use of the machines. What the machine does is to enable a law clerk in a judge's chambers to access, as they say in the magic phrases today, the central processing unit in the chambers. You don't need another secretary.

The only way of getting that kind of work done, as an alternative to that machine, would be another secretary.

There is a question on the $191,000, which is returned, as to what we might do if required to remove that amount in this '87 year.

I will wind up, Mr. Chairman, with the comment that every organization, particularly in these days, I am sure is saying they have had a bare-bones budget and that sort of thing. So I join the crowd in so saying.

I think, though, Mr. Chairman, that the Subcommittee is fully aware, over these last 14 years, of how careful we have been. When we had to put the machines over, of course, for another year, I said, well, there we go. No good deed ever goes unpunished.

So we hope we do get them back this year.

I shall be glad, Mr. Chairman, to attempt to answer any questions you might have or any member of the Committee might have.

WORD PROCESSORS

Mr. **Dwyer**. You were talking about the word processor, Judge, then on page 2.7 you show a third secretary for the Chief Judge. Would you explain that a little bit more?

Judge **Markey**. Oh, I see. The machines are for the other judges. Two years ago when this Committee approved a budgetary figure to acquire machines for 12 chambers, we began that process.

We only got to three chambers when we got notice to stop. So the other nine judges' chambers do not have these machines. It is the other nine that we are looking for.

The request for me is to convert a temporary secretary to permanent. I am rather proud of having gotten by with two all these years, but this workload is just so big that we really need it.

We don't have, as you know, a Circuit Executive. She does a lot of the things that a Circuit Executive would do.

IMPACT OF SEQUESTRATION

Mr. **Dwyer**. What activities and items were affected by the sequestration of $191,000 from your appropriation for the current fiscal year?

Judge **Markey**. I brought a little list, but broadly, even before I get to the list, the majority of the money that we are able to absorb was, of course, lapsed money because—fortunately or unfortunately, depending on how one looks at it—the Executive Branch and the Congress did not get around to filling our vacancies.

So we were able to absorb that primarily through lapsed money from vacancies; but, of course, a vacancy is murder on our performance. In addition to the vacancies, as I indicated earlier we lost the new Wang machines, the new word processors, the nine sets for the other judges.

Because these vacancies were not filled, we not only had lapsed money there but we did not have to supply new judges with books, papers, stationery, et cetera. So when we put it all together, that was how we got to absorb the $220,000.

Then, as you said, we had the sequestered amount of $191,000. Again, you can call it luck or otherwise—the Markey luck was working or not—Judge Kashiva was the first in the history of the court, only three-year history but even of its predecessor courts—resigned completely. That, of course, gave us a good deal of lapse money.

Judge Bennett taking senior status gave us seven months of the current fiscal year of lapse money. Then, of course, the law clerk was dropped off for the two senior judges. Then you take off the personnel benefits. Then the court declined to sit outside of Washington.

As the Chair is certainly aware, the Congress in the legislative history of the bill creating our court stated that we should sit around the country, not always in Washington. We had been doing that: once a year for the first year and twice a year for the second year, and had started on the third year. We cut it out, now, for this year in view of the sequestered amount. So we are not sitting outside of Washington.

So those all together came up to the first, the $220,000, then the $191,000. That is a long answer to a short question.

Mr. **Dwyer**. To sum it up, then, the Markey luck would not make a restoration request necessary.

Judge **Markey**. Well, it would not if we are not going to budget for replacement judges. We could, of course, leave that off and then rush in here for a supplemental when the President has appointed somebody, which I would hope of course would be tomorrow.

We have no way of knowing or predicting when that might happen, but I think we owe a duty to the Subcommittee to budget for those new judges and for picking up the salaries of the senior judge's clerk and secretary because we know it is going to happen or we think it is going to happen. We have every reason to think it is going to happen.

If it does not happen, yes. In answer to your question, we could absorb it as we did this year, at least most of it, providing we get the Wang machines.

SPACE FOR NEW SENIOR JUDGES

Mr. **Dwyer**. You are requesting an increase of $137,000 to staff two judges who will be taking senior status and $156,000 to purchase equipment and furniture for the replacements.

Where do you expect to house the new judges, and how much will it cost to prepare the space for them?

Judge **Markey**. Happily, we have two small chambers on the second floor of the building which are ready to accept these two senior judges. We have been loaning those to judges of the Claims Court because of comity and cooperation, and so on.

They have always agreed, however, that they would make them immediately available if we needed them. So we have not asked for them; but we would, of course, as soon as we get these replacement judges because each of our chambers, now, on the eighth and ninth floor is occupied by a judge.

GSA RENTAL INCREASE

Mr. **Dwyer**. You have mentioned the large increase you have had from GSA regarding your rent. Is any of that due to remodeled facilities, because some facilities were remodeled.

Judge **Markey**. No, Mr. Chairman. That is total rent, nothing else but rent.

Mr. **Dwyer**. No additional space.

Judge **Markey**. No. None.

Mr. **Dwyer**. Mr. Early.

Mr. **Early**. No questions.

Mr. **Dwyer**. Thank you, Judge Markey.

We may have two additional questions which we shall submit to you and you can answer for the record.

[The questions and the answers submitted thereto follow:]

Court of Appeals for the Federal Circuit

Question. I understand there is legislation pending which would waive social security payments for senior judges. What is the status of this legislation, and what impact, if any, will there be on the willingness of senior judges to continue to serve on the bench if this legislation is not enacted?

Answer. I do not know the status of the legislation, Mr. Chairman, and can speak only of the impact on our own court. Of our four Senior Judges, two have continued to sit since 1 January and two have declined to sit since that date. The marvel is that any Senior Judge would sit under present circumstances. As you know, Mr. Chairman, Senior Judges have literally saved the federal judicial system from collapse, and did so while working for nothing. As I belive the Congress has recognized, to ask Senior Judges to pay for the privilege of working is not only unfair and counter-productive, but a direct injury to the prompt administration of justice. We understand and trust that the Congress intends to act soon to return to us the 50% of our Senior Judge assistance we have lost.

CASELOAD

Question. Please provide for the record the most recent data on filings, dispositions and cases pending for the court of appeals for the Federal Circuit?

Answer. See following chart:

WEDNESDAY FEBRUARY 26, 1986.

BICENTENNIAL EXPENSES, THE JUDICIARY

WITNESS

HOWARD T. MARKEY, CHIEF JUDGE

Mr. DWYER. Judge Markey is also here to testify on behalf of the request for Bicentennial Expenses of the Judiciary. The request is for $1,500,000. We shall insert into the record at this point the justification materials submitted in support of this request.

[The justification materials follow:]

Table 1
U.S. Court of Appeals for the Federal Circuit
Appeals Filed, Terminated, and Pending
During the Twelve Month Period Ended March 31, 1985

Source of Appeal	Pending Apr. 1, 1984	Filed	Terminated									Pending Mar. 31, 1985
			Total	Withdrawn	Decided							
					Total	Affirmed		Reversed		Modified		
						Number	Percent[1]	Number	Percent[1]	Number	Percent[1]	
Total	519	2,499	1,254	313	941	784	83.3	102	10.8	55	5.8	1,764
Board of Contract Appeals	26	64	50	14	36	30	83.3	3	8.3	3	8.3	40
Court of International Trade	18	37	42	10	32	18	56.3	14	43.8	-	-	13
U.S. Claims Court	66	183	141	39	102	84	82.4	12	11.8	6	5.9	108
U.S. District Courts	126	193	179	41	138	86	62.3	23	16.7	29	21.0	140
International Trade Commission	4	13	6	1	5	5	100.0	-	-	-	-	11
Merit Systems Protection Board	209	1,847	702	189	513	474	92.4	32	6.2	7	1.4	1,354
Patent and Trademark Office	67	151	125	18	107	81	75.7	16	15.0	10	9.3	93
Secretary of Commerce	1	-	1	-	1	-	-	1	100.0	-	-	-
Writs[2]	2	11	8	1	7	6	85.7	1	14.3	-	-	5

[1] Percents may not add up to 100.0 due to rounding.

[2] This category includes both writs of mandamus and other extraordinary writs.

BICENTENNIAL EXPENSES, THE JUDICIARY

BICENTENNIAL ACTIVITIES

Summary of Requirements

Appropriation 1986 (enacted to date)	$ .....
1987 budget estimate	1,500,000
Proposed Increase	1,500,000

Appropriation Language

BICENTENNIAL ACTIVITIES

For expenses to be incurred by the Judiciary for the observance of the Bicentennial of the Constitution of the United States, $1,500,000, to remain available until expended. Funds appropriated under this heading in the Judiciary Appropriation Act, 1976, shall also be available for this purpose.

General Statement

Mr. **Dwyer**. Judge Markey, we shall insert your prepared statement into the record and then you may proceed at your own pace.

[The prepared statement follows:]

PRESENTATION
of
HOWARD T. MARKEY
Chief Judge, United States Court of Appeals for the Federal Circuit
before the
SUBCOMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
26 February 1986

It is a special pleasure, Mr. Chairman, to appear before you today to discuss the plans of the Third Branch for celebrating the 200th anniversary of what Gladstone called "the most remarkable work . . . to have been produced by the human intellect at a single stroke".

As Chairman of the Judicial Conference of the United States, the Chief Justice appointed a Conference Committee on the Bicentennial of the Constitution. The Committee includes a district or circuit judge from each Circuit (see attachment A).

The Committee held its first, organizational meeting on December 18, 1985. Certain conclusions were reached:

(a) Life of the Committee

Like that of the National Commission on the Bicentennial of the Constitution, and of the Nation's celebration, the life of the Committee extends through 1987, 1988, and 1989.

(b) The Committee's Charter

(1) to promote, encourage, and coordinate activities within the Judicial Branch designed to commemorate the Bicentennial of the Constitution, including its drafting, ratification, and history;
(2) to plan and develop such activities in pursuit of the goals of ceremony, celebration, scholarship, and education.
(3) to serve as a clearing house for collection and dissemination of information about Bicentennial events and plans of individual units of the Judicial Branch.

(c) The Committee's Modus Operandi

The Committee will accomplish its goals primarily by encouraging local courts to create and carry out projects in their local areas, using volunteers and locally generated funds. Locally conceived, planned, staffed, funded, and conducted activities are not only more likely to succeed, but are essential to accomplishment of the Judiciary's nationwide celebration of the Constitution's Bicentennial.

(d) The Committee's Expenditures

Funding will be needed in part to support Committee-funded projects and in part to provide for limited grants in partial support of Committee-approved projects of units within the Federal Judiciary.

The Committee expects that most of its work will be accomplished by correspondence and that travel and other costs of meetings will thereby be held to an absolute minimum.

At its first meeting, the Committee elected to request each district and circuit court to form its own committee on the Bicentennial of the Constitution. That request is being honored. Many courts have already appointed their committees and others are in the process of doing so.

The Committee's one-day meeting was insufficient to permit thorough consideration or even tentative approval of specific Bicentennial Projects for either Committee adoption or recommendation to individual courts. A list of possible projects has been prepared for consideration by the Committee (see attachment B). Some listed projects will be rejected as being or as being better done by others. Some may be rejected as too expensive or too short-lived. Some, along with others not yet conceived, may be adopted.

A model for the present Committee exists in certain operations of the Judicial Conference Committee on the Bicentennial of the Declaration of Independence, on which I had the honor of serving as Coordinator. There too, meetings were rare and expenditures were so carefully monitored that less than 75% of the "until spent" allocation for that committee was consumed. Your Committee, Mr. Chairman, approved on October 10, 1978, the use of remaining funds in that allocation for planning the Judiciary's celebration of the Bicentennial of the Constitution.

The Committee on the Bicentennial of the Declaration carried out three major projects: (a) Production of five films on early court cases that brought into fruition some of the principles underlying the Declaration; (b) A Biographical Directory of every federal judge since 1789; and (c) A history of each circuit. Each of those projects was designed to be of long-lasting use and benefit. Though the earlier committee carried out primarily its own projects and the primary thrust of the present committee is expected to lie in encouraging and coordinating local projects, the experience of the former will supply useful guidance.

The Committee presently estimates its funding need at $1,500,000, to be expended over the three-year life of the Committee. Fully aware of current budget constraints, the Committee has limited its request to what would appear to be the minimum necessary to meet the once-in-two-hundred-years opportunity of celebrating Freedom's Birth Certificate.

Though the Committee's primary focus is within the Federal Judiciary, it anticipates the necessity and pleasure of working with other entities. A Conference on the Judiciary Act of 1789 would obviously involve participation by the Congress. A World Conference on the Constitution might involve participation by the International Conference of Appellate Judges.

Though the Committee has not adopted or priced any of the projects on attachment B, some of those projects, and others likely to be recommended to the Committee, would have to be foregone absent availability of funding beyond that requested here. Nonetheless, the Committee believes it can, working with all concerned and husbanding its resources, produce a Third Branch celebration of the Constitution's Bicentennial to which the Federal Judiciary and the Congress may in 1989 look back with pride.

It would be pleased, Mr. Chairman, to attempt answers to any questions you or any member of your Committee may have.

Attachment A

Membership of the Committee on the Bicentennial of the Constitution

JUDICIAL CONFERENCE OF THE UNITED STATES

Judge Bailey Aldrich
Judge Thomas J. Meskill
Judge Arlin M. Adams
Judge Albert V. Bryan, Jr.
Judge Adrian G. Duplantier
Judge Damon J. Keith
Judge James E. Noland
Judge James H. Meredith
Judge Eugene A. Wright
Judge Sherman G. Finesilver
Judge William Brevard Hand
Judge Kenneth W. Starr
Judge Helen W. Nies

Judge Howard T. Markey
Chairman

The Chief Justice
Justice William H. Rehnquist
Justice Lewis F. Powell, Jr.

Chief Justice Edward F. Hennessey
Chief Judge Robert C. Murphy

BICENTENNIAL ACTIVITIES
FISCAL YEAR 1987
(Dollar amounts in thousands)

		1987 Request	
Page No.		Perm. Pos.	Amount
	Summary of changes:		
	Budget Authority 1986	...	$ ...
	Adjustments to base and built-in changes:		
14.5	1. Expenses for the observance of the Bicentennial of the Constitution of the United States	...	+1,500
	Total increases requested	...	+1,500
	Total appropriation requested, 1987	...	$ 1,500

BICENTENNIAL ACTIVITIES

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent Comparison by activities:	1986 Appropriation Perm. Pos.	1986 Appropriation Amount	1986 Adjusted (Base for 1987) Perm. Pos.	1986 Adjusted (Base for 1987) Amount	1987 Request Perm. Pos.	1987 Request Amount	Increase 1987 over 1986 as Adjusted Perm. Pos.	Increase 1987 over 1986 as Adjusted Amount
Total Obligations	...	$ 311	...	$2,000	...	$2,000	...	$.....
Unobligated balance available, start of year	...	-811	...	-500	...	-500	...	.....
Unobligated balance available, end of year	...	+500	...	...	...	...	...	.....
Budget Authority	...	$ ...	$...	$1,500	...	$1,500	...	$.....

Object Classification
(In thousands of dollars)

	1986 Estimate	1987 Estimate	Difference (+) or (-)
21 Travel and transportation of persons....................	32	240	+ 208
22 Transportation of things................................	1	8	+ 7
23 Communications, utilities, and other rent...............	10	72	+ 62
24 Printing and reproduction...............................	32	240	+ 208
25 Other services..	173	960	+ 787
26 Supplies and materials..................................	63	480	+ 417
Total obligations..	$311	$2,000	$+1,689

Relation of Obligations to Outlays
(In thousands of dollars)

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net....................................	$311	$2,000	$+1,689
Obligated balance, start of year..........................	+80	+20	+60
Obligated balance, end of year............................	-20	-120	-100
Outlays...	$371	$1,900	$+1,529

General Statement

This appropriation is requested to fund the Judiciary's observance of the Bicentennial of the Constitution of the United States. An appropriation of $2,000,000 was approved in fiscal year 1976, intended for the observance of the American Revolution Bicentennial. Language was then included in the fiscal year 1979 Appropriations Act which permits the use of carryover funds from this appropriation in the planning for the activities of the Constitution's Bicentennial. Since that time, the Bicentennial Committee has completed several historical projects, such as published histories of the judicial circuits, in preparation for the observance.

The Bicentennial Committee of the Judicial Conference estimates the need for $2,000,000 for fiscal year 1987 to complete further planned activities. Since the estimated sum of $500,000 will remain available at the close of 1986, the balance of $1,500,000 is hereby requested. Activities currently planned include historical movies; chronological court directories, and exhibits in the various district and appellate courts.

Justification of Changes

Item 1. Expenses for the Observance of the Bicentennial of the Constitution of the United States ($1,500,000)

Since fiscal year 1979, funds originally appropriated for the Bicentennial of the American Revolution have been available for the planning of the Judiciary's observance of the Bicentennial of the United States Constitution. The Judicial Conference's Bicentennial Committee has developed such plans, and has completed several projects, such as publishing various judicial circuit histories. Activities for fiscal year 1987 include production of short films for use in broadcasting and teaching, and distribution of a biographical directory of the Judiciary over the past 200 years.

The sum of $1,500,000 is requested to fund the special activities planned throughout the court system. This amount, coupled with an estimated $500,000 which will remain available at the close of fiscal year 1986, will provide travel, contractual services, and supplies necessary to an effective and educational observance of our Constitution's Bicentennial.

As with the prior appropriation, it is proposed that these funds remain available until expended in view of the fact that the observance of the Bicentennial is scheduled to run throughout calendar year 1987 and obligations may well be incurred beyond the expiration of fiscal year 1988.

Attachment B

Possible Projects

(a) Joint Congressional-Judicial Conference on the Judiciary Act of 1789

(b) Updating Bicentennial of the Declaration Films

(c) Exhibits on the Constitution in Every Federal Courthouse

(d) "Constitutional Minutes"
For TV, Radio, Movie Houses and Schools -- films and aural tapes containing a short quote from the Constitution and a 60-second explanation of what that provision means in the daily life of the individual citizen, with "Bicentennial Committee of the Judicial Conference of the United States" shown as the source.

(e) "Open House at the Federal Court"
On particular days of commemoration - date of ratification, admission of State to the Union, September 17, 1987, etc. - public is invited to courthouse to see exhibits tied to event commemorated, to question guides about the court - as visitors now do at Supreme Court.

(f) "The Schools Go To Court"
Planned visits of teachers and classes to observe a court proceeding - followed by a visit and discussion with the judge.

(g) "The Courts Go To School"
Federal judges visit local schools to lecture on the Courts and the Constitution.

(h) Brochure on Federal Courts
A short, clear pamphlet, suitably illustrated in color and written in plain language explaining the role of the courts under the Constitution - available at all courthouses.

(i) Brochure on State Courts
Committee would encourage State Courts to prepare brochures explaining State Court's role in applying the U. S. Constitution.

(j) "The Constitution and You"
Pamphlet available to the public at every federal courthouse, and explaining, similar to the "Constitutional Minutes", the rights of the people under the Constitution.

(k) Essay Contests

(1) Local
Each federal district court works with nearby law school or law schools whose students submit to the court an essay on "The Courts and the Constitution" -- Judges choose winner, who is awarded a placque at a suitable in-court ceremony.

(2) Circuit
Each federal circuit selects a winning essay from winners of the local contests in its circuit, and awards a placque at a suitable ceremony in the circuit court;

(3) National
The Judicial Conference of the United States selects a winning essay from the Circuit winners. A placque and a small cash award is made by The Chief Justice at a suitable ceremony in the Supreme Court.

(l) Newspaper Inserts
Free distribution to newspapers of printed versions of the "Constitutional Minutes".

(m) Pamphlets
A series of pamphlets for distribution at all courthouses and to schools, libraries, newspapers, etc. Pamphlets will be Committee-prepared, or prepared with Committee funds and signed by a scholar or academic with Committee approval of content.

(1) "The Life of the Federal Court System"
Explaining the growth of the Federal Court System, from Article Three, through the Judiciary Act of 1789, the Circuit Court Act of 1925, and subsequent Acts of Congress to the present day.

(2) "Constitutional Debates on a Federal Judiciary"
Based on the Federalist Papers, records of the Convention, and ratification papers.

(3) "Judges Who Were Contemporaries of the Founding Fathers"
Short bios of those who served with Washington, attended the Convention, served in the First Congress, etc.

(4) "The Federal Court System"
Explaining the organization of the system -- the courts, circuit councils, Judicial Conference of U. S., Federal Judicial Center, the Administrative Office, and the role of each.

(5) "United States Court Systems"
As in (4), but adding the State court systems and organizations such as the National Center for State Courts, Association of State Chief Justices, etc.

(6) "The Judicial Conference of the United States"
Explaining the role, the membership, the committee structure, the powers and operational procedures of the Conference, and its relationship with the Congress.

(7) "The Federal District Courts"
Explaining the jurisdiction, trial function, trial function, number and location, of the district courts.

(8) "The Federal Circuit Courts"
Explaining the role, geographic areas and size of the circuits, the role of the circuit executive, the circuit council, the annual circuit judicial conference.

(n) Biographical Directory "Judges of the United States"
Updating the First and Second Editions prepared by the Committee on the Bicentennial of the Declaration, to include all judges appointed since December 31, 1981, and new information on living judges listed in the Second Edition.

(o) World-wide Conference on the Constitution
Conference of judges, legislators, and academics, held in Washington, D. C. in conjunction with the 1988 International Conference of Appellate Judges.

Judge MARKEY. Thank you, Mr. Chairman. I appreciate your making the statement a part of the record. It is lengthy and I would just simply comment as to what it shows.

The Committee has just begun. December 18th was its first meeting. It is planned to have a life of three years, coincident with the celebration by the Nation of the signing and the ratification of the Constitution, the beginning of the Government in 1789.

We have submitted here a list of projects. These have been dreamed up somewhat by the chairman, somewhat by others. They have not yet received approval or financing or pricing by the Committee.

So I cannot say that the Committee will or will not adopt one or all or half, or any of them; but it does reflect the kind of projects that will be submitted to the Committee. As I say, there is no way of really pricing them at this stage. They may not even be adopted.

The first one, however, I think would be of particular interest to the Chairman. The Committee has received a proposal—the Committee has not yet studied it, they just received it—from Georgetown University to serve as a joint or cosponsor of a two-or three-day conference in 1989 between Members of the Congress and members of the Federal Judiciary on the Judiciary Act of 1789.

The Act has not received the kind of attention that it might otherwise receive. While I am sure that your predecessor from New Jersey will be thinking of it at the time, because New Jersey was one of the 13, the full Congress, I am sure, would have an interest in that.

If that is approved, we have no idea what it would cost, but obviously the cost could be substantial.

Our best guess is $1.5 million for three years to support this kind of a program.

I think, Mr. Chairman, I should now open myself to questions.

Mr. DWYER. Well, then, essentially the $1.5 million is your best guess based on some projections that have been put forward.

Judge MARKEY. Yes.

BALANCES FROM AMERICAN REVOLUTION BICENTENNIAL

Mr. DWYER. How much was left over from the $2 million that was appropriated from the Judiciary's observance of the American Revolution Bicentennial?

Judge MARKEY. I am very glad you asked, Mr. Chairman. I am quite proud of that result. I think it ties in with what I have been saying in my earlier remarks.

This Committee appropriated $2 million until spent. We spent less than three-quarters. We still have $811,000. We have kept, as you can see, very close track of that.

In 1978, this Committee approved the use of moneys that may remain from the projects having to do with the celebration of the 200th Anniversary of the Declaration, to the extent necessary, for planning for celebration of the Constitution.

As you see, we have spent only $19,966 on that kind of planning from that amount. There is, however, no cut off, so to speak, of the earlier Declaration projects. We had three

First was the making of five movies on four cases at the Supreme Court. That is finished, and was many years ago.

Of the other two projects, one is a biographical directory of every Federal Judge who ever sat. We have made two editions; we are now working on the third. That is an ongoing thing. The third edition will pick up all the judges who have been appointed since 1981, for example.

The other is Circuit histories, a history of every Circuit. All of the Circuits have completed their histories but five to which must be added the Eleventh Circuit, which did not exist when the project to celebrate the Declaration was initiated. They, too, will want to begin the perpetration of their history.

So that of this $811,000 we have estimated that we will need about $60,000 to $80,000 for the third edition, which is computer printed off questionnaires submitted by the judges, and about $90,000 to perhaps $100,000 on these additional histories, finishing up the histories of those five and adding the Eleventh Circuit.

So we are talking, in round terms, of about $190,000 to $200,000 out of that $811,000, which is a carry-on; and we probably should not hold back spending so much of that on the Constitution that we would not be able to produce a fourth edition of that biography. I would hope that would continue even long after I am gone.

That, too, is a long answer, Mr. Chairman. I hope I have not made it more confusing.

BIOGRAPHIES OF FEDERAL JUDGES

Mr. **Dwyer**. At what point would you have a cut off, then, on putting out the biographies?

Judge **Markey**. I would suppose never.

Mr. **Dwyer**. You mean every three years for the rest of the history of the country?

Judge **Markey**. I would love to see that. Neither you nor I will probably be around to see it.

Mr. **Dwyer**. You hope forever, then.

Judge **Markey**. The point is, of course, we are always appointing new judges. Some people say too many of them, but nevertheless——

Mr. **Dwyer**. Did you print the biographies of the Federal Judges prior to the Bicentennial of the Revolution?

Judge **Markey**. No. That was one of the projects adopted by the Committee on the Bicentennial of the Declaration. Each Committee member got a copy—I hope you still have yours—of the first and second editions. If not, we will get one over by 2:30 this afternoon.

Mr. **Dwyer**. You might make it.

Judge **Markey**. I am sure. We move pretty fast.

Mr. **Dwyer**. Mr. Early?

PLACES OF HOLDING COURT

Mr. **Early**. Just one question.

Judge Markey, on the Committee on the Bicentennial, I see you have several projects included in it. Let me ask, when you pass out in schools a pamphlet dealing with the Federal District Court explaining the jurisdiction, trial function, the number and location of the District Courts, when Congress puts in the words, "There shall be ten Judges . . .", "They shall be located . . ." here or there, would you say the word "shall" means that it is mandatory or is that discretionary?

Judge **Markey**. I think you are speaking of places of holding court?

Mr. **Early**. Right.

Judge **Markey**. My impression has been that when Congress speaks, that is it.

Mr. **Early**. Yes, but I mean, any time we use the word "shall" isn't it mandatory? If we want to use a discretionary term wouldn't we say "will" or "may"?

Judge **Markey**. Yes. The books are full, Mr. Congressman, of cases saying exactly that in almost every branch of law, statutory interpretation cases.

Mr. **Early**. Thank you.

Judge **Markey**. I fully agree.

REQUEST FOR BICENTENNIAL FUNDS FROM THE SUPREME COURT

Mr. Dwyer. Just one more question, Judge.

The Supreme Court is asking for $100,000 for the Bicentennial of the Constitution. Could they dig into your pot?

Judge **Markey**. No, sir; and vice versa, I hope.

The request comes from a Committee of the Judicial Conference of which, of course, the Supreme Court is not a member. It is divorced from the Supreme Court.

We have nothing to say about what they might do and I trust that is vice versa in this area because this is a Committee of the Judicial Conference.

While I requested here $1.5 million, having received already permission to spend the remaining funds from the earlier one on this program I did not ask for $2 million. We will take $500,000 out, making it a carryover, making it exactly $2 million.

If we have $600,000, we will take that over and we will have $2.1 million.

But I think you can be sure, Mr. Chairman, not a penny will be spent that is not necessary.

Mr. **Dwyer**. Thank you very much, Judge Markey. We may have one or two more questions which we shall submit to you and you can answer for the record.

[The question and the answer submitted thereto follow:]

Bicentennial Expenses, the Judiciary

Question. Why should there be a separate appropriation in the Judiciary to fund activities to observe the Bicentennial when the Judiciary is already making such an important contribution to the operation of the Bicentennial Commission on the Constitution?

Answer. The requested appropriation relates only to activities within the Judiciary. The National Commission's activities embrace the nation, and its appropriation would not be available, of course, to support our activities. Though the Commission is so ably chaired by The Chief Justice and has two judges among its 23 members, and though I have been honored to attend its meetings in a merely liaison role, I don't believe it can be said that the Judiciary per se is making a very substantial contribution to the Commission's operation.

WEDNESDAY, FEBRUARY 26, 1986.

UNITED STATES COURT OF INTERNATIONAL TRADE

WITNESSES

EDWARD D. RE, CHIEF JUDGE
JOSEPH E. LOMBARDI, CLERK OF THE COURT

Mr. DWYER. The next item we shall consider is the FY 1987 budget request for the United States Court of International Trade. The request is $7,546,000 which represents an increase of $1,389,000 above the appropriation for the current fiscal year adjusted for sequestration under Public Law 99-177.

We shall insert the justifications in support of this request at this point in the record.

[The justifications follow:]

THE JUDICIARY

UNITED STATES COURT OF INTERNATIONAL TRADE

Summary of Requirements

Appropriation 1986 (enacted to date)	$6,400,000
Sequestered pursuant to P.L. 99-177	-243,000
Budget Authority, 1986	6,157,000
1987 budget estimate	7,546,000
Proposed Increase	1,389,000

Appropriation Language

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court, [$6,400,000]: *Provided*, That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge. $7,546,000

UNITED STATES COURT OF INTERNATIONAL TRADE
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page No.	Summary of Changes	1987 Request Perm. Pos.	Amount
	Appropriation 1986 (enacted to date)	101	$6,400
	Sequestered pursuant to P.L. 99-177	...	-243
	Budget Authority, 1986	101	6,157
	Adjustments to base and built-in changes:		
[illegible]	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+ 243
[illegible]	2. Restoration of reduced fiscal year 1986 budget authority resulting from an unobligated balance	...	+ 98
[illegible]	3. Cost of within-grade salary advancements	...	+ 13
[illegible]	4. Increase in rental of space	...	+1,271
[illegible]	5. Other increases for contract rates, charges for services, supplies, equipment, and lawbook continuations	...	+ 22
[illegible]	6. Reduction in travel	...	- 10
[illegible]	7. Reduction in space requirements (rental of space)	...	- 161
[illegible]	8. Nonrecurring items authorized in fiscal year 1986	...	- 144
	Subtotal, adjustments to base and built-in changes	...	+1,332
	Program changes:		
[illegible]	9. Abolishment of 2 permanent positions	- 2	- 35
[illegible]	10. Expenses relating to anticipated increase in number of senior judges	...	+ 92
	Subtotal, program changes	- 2	+ 57
	Total increases requested	- 2	+1,389
	Total appropriation requested, 1987	99	$7,546

UNITED STATES COURT OF INTERNATIONAL TRADE

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Salaries and expenses	101	$6,498	101	$7,489	99	$7,546	- 2	$ + 57
Sequestered pursuant to P.L. 99-177	...	- 243	...	...	...	...	...	...
Total obligations	101	6,255	101	7,489	99	7,546	- 2	+ 57
Unobligated balance, start of year	...	- 98	...	...	...	...	...	...
Budget Authority	101	$6,157	101	$7,489	99	$7,546	- 2	$ + 57

Object Classification
(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
11	Personnel compensation	$3,550	$3,530	$- 20
12	Personnel benefits	393	391	- 2
21	Travel and transportation of persons	53	48	- 5
22	Transportation of things	10	10	...
23	Standard level user charges	1,788	2,898	+1,110
	Communications, utilities, and miscellaneous charges	190	200	+ 10
24	Printing and reproduction	22	24	+ 2
25	Other services	130	138	+ 8
26	Supplies and materials	38	42	+ 4
31	Equipment	324	265	- 59
	Subtotal	6,498	7,546	+1,048
	Sequestered pursuant to P.L. 99-177	-243	...	+ 243
	Total obligations	$6,255	$7,546	$+1,291

General Statement

Mr. Dwyer. And it is always a pleasure to welcome back to the Committee, the Honorable Edward D. Re, Chief Judge, United States Court of International Trade. Judge Re we have your statement. Proceed at your own pace.

[The prepared statement follows:]

STATEMENT OF EDWARD D. RE
Chief Judge
UNITED STATES COURT OF INTERNATIONAL TRADE
before
The Subcommittee of the
Committee on Appropriations
House of Representatives

February 26, 1986

Mr. Chairman, Members of the Committee:

It is a pleasure to appear before you again on behalf of the United States Court of International Trade.

The appropriation requested for fiscal year 1987 is $7,546,000, an increase of $1,389,000, or approximately 22% over the $6,157,000 adjusted amount appropriated for fiscal year 1986. Included in the increase of $1,389,000, is $243,000, the amount to be sequestered in fiscal year 1986 pursuant to P.L. 99-177. This amount will adjust our budget authority for fiscal year 1986 from $6,400,000 to $6,157,000.

Of the total increase, approximately 80%, $1,110,000, is for charges imposed by GSA for the Rental of Space, pursuant to the Public Buildings Act of 1972. The amount imposed by GSA for the Rental of Space for fiscal year 1987 is more than 61% higher than the amount appropriated for 1986. Of course, these charges are determined and imposed by the General Services Administration, and we have no part in arriving at the amounts charged. Nor, would I attempt to justify the increase imposed by GSA.

As reflected in our budget request for fiscal year 1987, the Court, in continuing its policy of relinquishing space, which is no longer needed, will "turn back" to GSA in fiscal year 1987, 5,292 square feet of space, resulting in a savings of $161,000.

The balance of the requested items is as follows:

1. The restoration of reduced fiscal year 1986 budget authority resulting from an unobligated balance requires $98,000.
2. The cost of within grade salary advancements requires $13,000.
3. The cost of increases for contract rates, charges for services, supplies, equipment, and lawbook continuations, using a 4% inflation factor, requires $22,000.
4. The cost of replacing one of the three judges eligible to assume senior status and continuing to function with assigned equipment, furniture and libraries requires $92,000. Of this amount, $72,000 will be non-recurring and $20,000 will be recurring.
5. In keeping with the Court's policy of abolishing vacant positions which are no longer needed, the sum of $35,000 has been deducted as a result of the abolishment of two vacant permanent JSP-6 positions.
6. The amount of $10,000 has been deducted in travel.
7. As mentioned above, in keeping with the Court's policy of relinquishing unneeded space, the sum of $161,000 has been deducted for relinquishing approximately 5,292 square feet of space.

I should like to emphasize to the Committee the efforts the Court is making to husband its financial resources by tightly controlling those expenditures which it can control. The sum of the increased items for fiscal year 1987 is $1,739,000. Of this sum, $1,625,000 (or 93%) is attributable to essentially non-controllable items. The remaining $114,000 in increases is more than offset by the $350,000 in reductions reflected in our request for 1987. In other words, but for the uncontrollable items, the Court's request for 1987 would be less than the 1986 budget authority.

I previously submitted the Court's "General Statement" and "Justification of Changes" which provide detailed descriptions of the line item adjustments. If the Committee requires more information, we will be pleased to submit it, and, of course, I will answer any questions you may wish to ask.

Judge RE. Thank you so much, Chairman Dwyer. It is always a pleasure to be here.

Chairman Dwyer, Congressman Early, I have been appearing before this Committee since 1961, and it becomes more pleasant every year.

The appropriation request for fiscal year 1987 is $7,546,000, an increase of $1,389,000 or approximately 22 percent over the $6,157,000 adjusted amount appropriated for fiscal year 1986.

Included in the increase of $1,389,000 is $243,000, the amount to be sequestered in fiscal year 1986 pursuant to Public Law 99-177. This amount will adjust our budget authority for fiscal year 1986 from $6,400,000 to $6,157,000.

Of the total increase, approximately 80 percent, $1,110,000 is for charges imposed by GSA for the rental of space pursuant to the Public Buildings Act of 1972. The amount imposed by GSA for the rental of space for fiscal year 1987 is more than 61 percent higher than the amount appropriated for 1986. Of course, these are charges that are imposed by the General Services Administration, and we have no part in arriving at the amounts charged.

As reflected in our budget request for fiscal year 1987, the court, in continuing its policy of relinquishing space which it no longer needed, will turn back, as it were, to GSA in fiscal year 1987 5,292 square feet of space resulting in a saving of $161,000.

The balance of the requested items is as follows:

(1) The restoration of reduced fiscal year 1986 budget authority resulting from an unobligated balance requires $98,000;

(2) The cost of within grade salary advances requires $13,000;

(3) The cost of increases for contract rates, charges for services, supplies, equipment and law book continuations using a 4 percent inflation factor requires $22,000;

(4) The cost of replacing one of the three judges eligible to assume senior status and continuing to function with assigned equipment, furniture and libraries requires $92,000; and of this amount $72,000 will be nonrecurring and $20,000 will be recurring.

In keeping with the court's policy of abolishing vacant positions which are no longer needed, the sum of $35,000 has been deducted as a result of the abolition of two vacant permanent JSP-6 positions.

The amount of $10,000 has been deducted in travel, and as mentioned previously, in keeping with the court's policy of relinquishing unneeded space, the sum of $161,000 has been deducted for relinquishing approximately 5,292 square feet of space.

As it appears, 52 percent of the total request is for personnel compensation and benefits; 38 percent is SLUC. That is 90 percent of the entire request.

I should like to emphasize to the Committee the efforts the court is making and has made to conserve its financial resources by controlling tightly those expenditures which it can control.

The sum of the increased items for fiscal year 1987 is $1,739,000. Of this sum, $1,625,000 or 93 percent is attributable essentially to noncontrollable items. The remaining $114,000 in increases is more than offset by the $350,000 in reductions reflected in our request for 1987.

In other words but for the uncontrollable items the court's request for 1987 would be less than the 1986 budget authority.

I previously submitted the court's general statement and justification of changes which provide more detailed descriptions of the line items, adjustments and if the Committee requires more information, we, of course, will be pleased to submit it, and obviously to the extent that I can, I will answer any questions you may wish to ask. I cannot conclude without saying that I appear with great pleasure with Mr. Lombardi, who has been our clerk for many years. I must let the record reflect how delighted I am to have so dedicated a public servant who has been so helpful in all of the many matters that have come up before the court. We have handled them all to the very best of our ability.

So if there are any questions, if I cannot answer them, I am quite confident that Mr. Joseph Lombardi or Mr. Richard DeMarco can give us satisfactory and accurate answers.

Thank you so much, Mr. Chairman.

Mr. DWYER. Thank you, Judge.

SEQUESTRATION

I wonder if you could give us a brief outline of how you made up the sequestration order of $243,000.

Judge RE. Yes, Mr. Chairman. Of the $243,000, the reduction has been made in the following items:

Personnel compensation, $122,000.

Personnel benefits, $16,000.

Travel, $2,000.

Rental space, SLUC, $77,000.

Communications, $8,000.

Printing, $1,000.

Other Services, $5,000.

Supplies, $1,000.

Equipment, $11,000.

As I am sure this Committee knows, since 1972, we worked awfully hard and successfully in reducing the personnel of the court. I believe we have reduced the personnel by almost a third.

CASELOAD

Mr. DWYER. We note a substantial reduction in your pending caseload. What is the reason for this? Do you expect further reductions in 1987?

Judge RE. The caseload basically reflects approximately 1,900 filings a year. For 1983, it was 1,915. For 1984, 1,823. For 1985, 1,926.

Ever since the Customs Courts Act of 1980, when the court acquired its new jurisdiction, our filings have been quite uniform at above 1,900 cases a year.

Mr. DWYER. Mr. Early?

Mr. EARLY. No questions.

Mr. DWYER. I guess the figure that the staff was looking at is this. Pending at the end of fiscal 1984 there were 40,000 and pending at the end of 1985 were 22,000 cases.

Judge RE. I see. Mr. Lombardi would like to reply to that.

Mr. **Lombardi**. Mr. Chairman, if you would look under the decided column for 1985, under the heading we call Reappraisement Cases, you will see a decrease of 18,684. I think this Committee is familiar with the test case procedure that is followed in our court.

Most of those 18,000 decided cases were suspended under what is called the MITI test case. They had been pending in the court for many, many years, and finally the court prompted the attorneys to dispose of those cases one way or the other.

By the end of this year, we should have all of the MITI cases disposed of.

Mr. **Dwyer**. Thank you, Judge. Thank you very kindly for appearing today. We may have a few more questions which we shall submit to you and you may answer for the record.

Judge **Re**. Thank you, Mr. Dwyer.

[The questions and the answers submitted thereto follow:]

Questions by Mr. Dwyer

Question. I understand there is legislation pending which would wave social security payments for senior judges. What is the status of this legislation, and what impact, if any, will there be on the willingness of senior judges to continue to serve on the bench if this legislation is not enacted?

Answer. Both Houses of Congress have agreed to exempt senior judges from payment of social security taxes. They have not done so in a single piece of legislation that has made its way to the White House. Separate issues have prevented a final Congressional decision on that issue. We have been given every assurance that the issue will be resolved shortly.

Question. We would also like to know why you believe that the $243,000, which was sequestered for fiscal year 1986, should be restored in 1987.

Answer. We were advised by the Administration Office that the policy of the budget committee of the judicial conference was to request restoration of sequestered funds and we have followed that policy. When our 1987 budget was formulated in September of 1985, it was felt at that time that the amount requested for fiscal year 1987 was the amount that would be required to operate the Court efficiently. However, in keeping with the spirit of Congress, as a result of Gramm/Rudman/Hollings, the Court will make every effort to operate as efficiently as possible without the $243,000.

Question. You are also to be congratulated for reducing your permanent staff by two positions. Is this due to increased productivity or a reduction in work load?

Answer. There have been no significant reductions in the judicial work load. However, as a result of automation and improved clerical procedures, we have been able to reduce the number of positions needed for the clerical processing of cases.

Question. What will it cost to provide facilities for the judge who will be taking senior status and for his replacement?

Answer. None. The judge who will be taking senior status retains his present office space, furniture, equipment, etc. We presently have 2 vacant chambers, therefore no additional funds are required for alterations and repairs for the chambers of the replacement judge. However, the funds requested in fiscal year 1987, $92,000 are for the *replacement judge:* $78,000 for a library, furniture and equipment, and $14,000 for miscellaneous items—printing, supplies, travel, etc. Of the $92,000 requested, $72,000 will be nonrecurring.

WEDNESDAY, FEBRUARY 26, 1986.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

WITNESSES

L. RALPH MECHAM, DIRECTOR
EDWARD V. GARABEDIAN, ASSISTANT DIRECTOR
DEWEY R. HEISING, CHIEF, FINANCIAL MANAGEMENT DIVISION

Mr. DWYER. The next item we shall consider is the budget request for the Administrative Office of the United States Courts for fiscal year 1987. The request is for $32,100,000 which represents an increase of $4,156,000 above the appropriation enacted for fiscal year 1986 adjusted for sequestration under Public Law 99-177.

We shall insert at this point in the record the justification material in support of the fiscal year 1987 budget request.

[The justification material follows:]

Relation of Obligations to Outlays
(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net	$6,498	$-243	$6,255	$7,546	$+1,291
Obligated balance, start of year	404	...	404	461	+57
Obligated balance, end of year	475	14	461	552	-91
Outlays	$6,427	$-229	$6,198	$7,455	$+1,257

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions	101	99	-2
Total compensable workyears:			
Full-time equivalent employment	99	99	...

General Statement

The estimates under this title are to provide for the salaries of the nine judges and supporting personnel of the United States Court of International Trade, and the necessary operating expenses of the Court, including travel expenses, expressage, communication services, printing and binding, supplies, equipment, furniture, new books and regular continuations of reports, encyclopedias, digests and pocket parts of various sets, and miscellaneous items of expense for the fiscal year 1987. For data as to the functions of the Court, its jurisdiction and basic statutory authorities, reference is made to the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

A summary of the business year of the Court for fiscal years 1984 and 1985 follows:

	Pending Beginning of Year	Received	Decided	Pending End of Year
CIVIL ACTIONS				
1984.............	6,937	1,823	2,440	6,320
1985.............	6,320	1,926	1,850	6,396
PROTESTS				
1984.............	336	0	68	268
1985.............	268	0	75	193
REAPPRAISEMENTS				
1984.............	37,263	0	3,142	34,121
1985.............	34,121	0	18,634	15,487
REMANDS OF PROTESTS				
1984.............	4	0	0	4
1985.............	4	0	4	0
TOTALS				
1984.............	44,540	1,823	5,650	40,713
1985.............	40,713	1,926	20,563	22,076

Justification of Changes

An appropriation of $7,546,000 is requested for fiscal year 1987, which is $1,389,000 more than the appropriation for fiscal year 1986.

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($243,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $243,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Restoration of Reduced Fiscal Year 1986 Budget Authority Resulting from an Unobligated Balance ($98,000)

In the supplemental appropriations bill for fiscal year 1985, the Congress authorized that funds in certain appropriations remain available for obligation until the end of fiscal year 1986 (September 30, 1986). This was done with the intent that the balances in those appropriations at the end of fiscal year 1985 would be available for obligation in fiscal year 1986. As a result, the fiscal year 1986 appropriations requests were subsequently reduced by the estimated amount of the fiscal year 1985 unobligated balances. Therefore, in order to restore the appropriation base to the 1985 level, the sum of $98,000 has been included in this request. This represents the unobligated balance which was carried forward into 1986 for obligation.

Item 3. Cost of Within-Grade Salary Advancements ($13,000)

All graded personnel who receive a satisfactory performance rating, pursuant to the salary plan for Judiciary personnel, are entitled to periodic step increases in compensation corresponding with those provided by Chapter 53 of Title 5, United States Code. It is estimated that those salary advancements, including any additional step increases that may be granted in recognition of high quality performance, will cost $13,000 during fiscal year 1986. The estimate is based on past experience and takes into account savings due to turnover of personnel and the filling of vacancies at lower rates of pay.

Item 4. Increase in Rental of Space ($1,271,000)

The sum of $1,271,000 is requested in fiscal year 1987 to cover increases in standard level user charges (SLUC) assessed by the General Services Administration (GSA).

Item 5. Other Increases for Contract Rates, Charges for Services, Supplies, Equipment, and Lawbook Continuations ($22,000)

It is estimated that an additional $22,000 will be required in fiscal year 1987 to cover increased charges for travel, contract rates, charges for contract rates, charges for services, supplies, equipment and lawbook continuations. This projection is based on an anticipated increase in expenditures at an estimated rate of 4 percent.

Item 6. Reduction in Travel ($-10,000)

As a result of expenditures in travel for the past three fiscal years, this line item may be reduced by $10,000.

Item 7. Reduction in Space Requirements (Rental of Space) ($-161,000)

As a result of the Court relinquishing approximately 5,292 square feet of space, this line item may be reduced by $161,000.

Item 8. Non-recurring Items Authorized in Fiscal Year 1986 ($-144,000)

The sum of $144,000 is deducted as non-recurring items authorized in fiscal year 1986 relating to increase in the number of senior judges.

Item 9. Abolishment of Two Permanent Positions ($-35,000)

The sum of $35,000 has been deducted as a result of the abolishment of two vacant permanent JSP-6 positions. This is in keeping with the Court's policy of abolishing vacant positions which are no longer needed.

Item 10. Expenses Relating to Anticipated Increase in Number of Senior Judges ($92,000)

The sum of $92,000 is requested in anticipation of one of the three judges eligible taking senior status and continuing to function with assigned equipment, furniture and libraries. Of the requested $92,000, $72,000 will be non-recurring and $20,000 will be recurring.

THE JUDICIARY

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Summary of Requirements

Appropriation [illegible]	[illegible]
[illegible]	[illegible]
Budget Authority, [illegible]	[illegible]
[illegible]	[illegible]

[illegible]

[illegible]

[illegible]

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS
FISCAL YEAR 1987
(Dollar amounts in thousands)

		1987 Request	
		Perm. Pos.	Amount
	Summary of changes:		
	Appropriation 1986 (enacted to date)	583	$ 29,200
	Sequestered pursuant to P.L. 99-177	...	-1,256
	Budget Authority, 1986	...	27,944
Page No.	Adjustments to base and built-in changes:		
12.6	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+1,256
12.6	2. Restoration of reduced fiscal year 1986 budget authority resulting from the carry forward of an unobligated balance	...	+ 452
12.6	3. Restoration of the reduction to the fiscal year 1986 appropriation base	...	+ 200
12.6	4. Cost of within-grade salary advancements	...	+ 206
12.7	5. Social Security taxes	...	+ 75
12.7	6. Other increases for rental of space, contract rates, and charges for services, supplies, and equipment	...	+ 279
	Subtotal, adjustments to base and built-in changes	...	+2,468
	Program changes:		
12.8	7. Office of Audit and Review	+15	+ 748
12.9	8. Criminal Justice Act Division	+ 2	+ 90
12.10	9. Financial Management Division	+ 2	+ 110
12.10	10. Personnel Division	+ 2	+ 84
12.10	11. Systems Services Division	+13	+ 656
	Subtotal, Program Changes	+34	+1,688
	Total increases requested	+34	+4,156
	Total appropriation requested, 1987	617	$32,100

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Executive Direction	70	$ 4,327	70	$ 4,428	85	$ 5,176	+15	$+ 748
Program Direction	90	4,258	90	4,358	92	4,448	+ 2	+ 90
Management Services	238	10,131	238	10,119	242	10,313	+ 4	+ 194
Information Systems	185	10,936	185	11,507	198	12,163	+13	+ 656
Subtotal	583	29,652	583	30,412	617	32,100	+34	+1,688
Sequestered pursuant to P.L. 99-177	...	-1,256	...	.....	...	.....	...	.....
Total obligations	583	28,396	583	30,412	617	32,100	+34	+1,688
Unobligated balance, start of year	...	-452	...	.....	...	.....	...	.....
Budget Authority	583	$27.944	583	$30,412	617	$32,100	+34	$+1,688

Object Classification
(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
11	Personnel compensation	$17,861	$19,293	$+1,432
12	Personnel benefits	2,182	2,434	+ 252
21	Travel and transportation of persons	847	1,036	+ 189
22	Transportation of things	119	119	...
23	Standard level user charges	2,606	2,813	+ 207
	Communications, utilities, and miscellaneous charges	2,928	3,058	+ 130
24	Printing and reproduction	224	233	+ 9
25	Other services	1,990	2,088	+ 98
26	Supplies and materials	575	615	+ 40
31	Equipment	320	411	+ 91
	Subtotal	29,652	32,100	+2,448
	Sequestered pursuant to P.L. 99-177	-1,256	.....	+1,256
	Total obligations	$28,396	$32,100	$+3,704

Relation of Obligations to Outlays

(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net..........	$29,652	$-1,256	$28,396	$32,100	$+3,704
Obligated balance, start of year...	4,208	...	4,208	4,946	+ 738
Obligated balance, end of year.....	-5,118	172	-4,946	-5,625	- 679
Outlays......................	$28,742	$-1,084	$27,658	$31,421	$+3,763

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions...............	583	617	+34
Total compensable workyears:			
Full-time equivalent employment............................	552	587	+35
Full-time equivalent of overtime and holiday hours........	7	7	...

General Statement

This appropriation is for the salaries and operating expenses of the Administrative Office of the United States Courts, pursuant to 28 U.S.C. 601 - 611. The Administrative Office provides management support and policy guidance to the Judiciary (exclusive of the Supreme Court) including such activities as outlined below:

-- fiscal control, including financial reporting, accounting, budgetary, auditing, and disbursing functions;

-- centralized implementation and coordination of management information systems for the Judiciary which provide more cost effective and efficient uses of Judicial Branch resources, thereby increasing accountability, security, timeliness, and accuracy of information;

-- personnel administration, including the processing of personnel documents and the Judiciary's payroll, the review and auditing of positions. the formulation of the Judiciary's personnel policies, and the interpretation of Federal personnel policies as they apply to the Judiciary; and the maintenance of records and the processing of applications and awards relating to Civil Service retirement and the Judicial Survivors' Annuities System;

-- statistical analysis, reporting, and the formulation of caseload projections through the collection and compilation of data relating to the workload of the United States courts of appeals, district courts, bankruptcy courts, the U.S. Probation Service, and Federal Defender organizations as well as information on grand and petit juries;

-- procurement and property management functions such as the acquisition of space, supplies, equipment, materials, and lawbooks as well as the maintenance of Federal property management records; work measurement studies which are used to develop workload standards used for the staffing requirements of the courts and office systems studies which are used to identify, evaluate, and subsequently implement automated and/or manual systems which may be beneficial to court offices on a nationwide basis;

-- recommendations on management practices throughout the United States courts in the form of financial audits and in-depth review and analysis of the nature and extent of compliance with Judiciary policies, plans, and procedures;

-- program administration and policy interpretation for various elements of the Judiciary including magistrates, bankruptcy, probation, clerks, Federal Defender organizations and court-appointed counsel, and court reporting and interpreting services;

-- staff support on legislative, legal, and equal employment opportunity matters.

References to basic statutory authorities are contained in the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Justification of Changes

The amount requested for fiscal year 1987 is $32,100,000. Excluding the mandatory items, the increase in budget authority--1987 over 1986--is $1,688,000. Provision has been made for 34 new positions which will increase the total permanent staff of the office from 583 to 617. Given the nature of its mission, the Administrative Office is continuously involved in the development and implementation of new systems and procedures which will improve the level of service provided to the courts and by the courts to the public and bar. Examples of this effort are requests for 13 positions to support district and circuit court automation projects as outlined in the Five Year Plan to automate the judiciary, two positions in support of statutorily mandated responsibilities of federal defender offices, two positions to facilitate the automation of the courts' financial systems, two positions to coordinate classification standards among judiciary personnel and 15 positions to ensure timely audits and recommended improvements in the courts.

Item 1. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($1,256,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $1,256,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Restoration of Reduced Fiscal Year 1986 Budget Authority Resulting from the Carry Forward of an Unobligated Balance ($452,000)

In the supplemental appropriations bill for fiscal year 1985, the Congress authorized that funds in certain appropriations remain available for obligation until the end of fiscal year 1986 (September 30, 1986). This was done with the intent that the balances in those appropriations at the end of fiscal year 1985 would be available for obligation in fiscal year 1986. As a result, the fiscal year 1986 appropriations requests were subsequently reduced and in order to restore the appropriation base to the 1985 level, the sum of $452,000 has been included in this request. This represents the unobligated balance which was carried forward into 1986 for obligation.

Item 3. Restoration of the Reduction to the Fiscal Year 1986 Appropriation Base ($200,000)

In the appropriation bill for fiscal year 1986, the Congress reduced the 1986 appropriation base in order to achieve spending levels required by the budget reconciliation process. The sum of $200,000 has been included in this request to restore the appropriation base to the 1985 level ($178,000 for personnel compensation and $22,000 for related benefits).

Item 4. Cost of Within-Grade Salary Advancements ($206,000)

All graded personnel in the Administrative Office of the United States Courts who receive a satisfactory performance rating, are entitled to periodic step increases as provided by Chapter 53 of Title 5, United States Code. It is estimated that those salary advancements will cost $206,000, during fiscal year 1987 ($184,000 for personnel compensation and $22,000 for related benefits). The estimate, which is 1 percent of total personnel compensation, is based on past experience and takes into account savings due to turnover of personnel and the filling of vacancies at lower rates of pay.

Item 5. Social Security Taxes ($75,000)

The sum of $75,000 is requested as a result of the passage of the "Social Security Amendments of 1983," Public Law 98-21, approved April 20, 1983. This legislation made certain changes affecting the financing of the Social Security System. In addition to the Civil Service Retirement System contribution, the employing agency is now required to contribute to Social Security for all new federal employees hired after December 31, 1983. Therefore, each year it will be necessary to budget additional funds for Social Security taxes for positions authorized prior to January 1, 1984, which become vacant and are filled by new federal employees. During fiscal year 1987, it is estimated that 62 positions will become vacant and that 13 of these will be filled by new federal employees. This estimate takes into consideration those positions which have become vacant once already since January 1, 1984.

The sum requested includes additional funds for two other provisions: (1) the wage base (maximum) upon which the Social Security taxes are assessed is projected to increase to $42,000 (the budget currently contains funds for a base of $37,800); and (2) the tax rate will increase to 7.15 percent. This percentage increase is for Medicare and impacts on all judiciary employees (except senior/retired judges).

Item 6. Other Increases for Rental of Space, Contract Rates, and Charges for Services, Supplies, and Equipment ($279,000)

It is estimated that an additional $279,000 will be required in fiscal year 1987 to cover increased charges for space rental, services, supplies, and equipment. Space rental charges in fiscal year 1986 are estimated to be $2,427,000. The amount available of $2,606,000 includes funding for a previously anticipated consolidation of the Administrative Office. The Congress did not reduce the amount available in the appropriation base for this purpose. The projected costs in all other areas are based on anticipated increases in expenditures at an estimated rate of 4 percent:

BIOGRAPHICAL SKETCH

Mr. **Dwyer**. We have with us today the Director of the Administrative Office of the United States Courts, Mr. L. Ralph Mecham, who has a statement in support of his budget request.

Mr. Mecham, since this is your first appearance before this Subcommittee, we shall insert your biography in the record at this point.

[The biographical sketch follows:]

Biographical Sketch

L. Ralph Mecham was appointed Director of the Administrative Office on July 15, 1985. He earned his B.S. degree with "high honors" at the University of Utah, his J.D. degree at George Washington University and holds an M.P.A. from Harvard. He was awarded a congressional fellowship to Harvard in 1963 and a graduate fellowship by Harvard in 1965.,

Prior to his July, 1985 appointment by the United States Supreme Court as Director of the Administrative Office, Mr. Mecham began his Washington career serving as an administrative assistant and counsel to a United States senator from Utah. After more than 13 years in Washington he returned to Utah for four years serving as vice president of the University of Utah for economic development and community service where he also supervised continuing education programs, served as dean, and taught constitutional law among other duties. He founded the University of Utah Research Park.

Later, Mr. Mecham returned to Washington where he was Special Assistant to the Secretary of Commerce for Regional Economic Coordination, as well as Co-chairman of the Four Corners Regional Economic Development Commission, a presidential appointment. After his commitment work, Mr. Mecham became vice president in charge of federal government relations for The Anaconda Company until it was acquired by Atlantic Richfield Company. He then served as Washington representative for Atlantic Richfield Company until he accepted the Administrative Office directorship. As Director, Mr. Mecham also serves on the Board of Directors of the Federal Judicial Center; is a member of the Judicial Fellows Commission; and is Secretary to the Judicial Conference of the United States.

Mr. Mecham is married to the former Barbara Folsom and has five children. He is a member of the American, Utah, District of Columbia, and Federal Bar Associations. He has served for 11 years on the University of Utah National Advisory Committee, most recently as Chairman.

General Statement

Mr. **Dwyer**. Mr. Mecham, we shall insert your statement in the record and then you can proceed with your statement at you own pace.

[The prepared statement follows:]

STATEMENT

OF

L. RALPH MECHAM

DIRECTOR, ADMINISTRATIVE OFFICE
OF THE UNITED STATES COURTS

BEFORE THE

SUBCOMMITTEE ON DEPARTMENTS OF STATE, JUSTICE,
COMMERCE, AND THE JUDICIARY

OF THE

COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

ON

JUDICIARY APPROPRIATION ESTIMATES
FOR FISCAL YEAR 1987

FEBRUARY [illegible], 1986

OPENING STATEMENT FOR ADMINISTRATIVE OFFICE BUDGET REQUEST

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

MY NAME IS L. RALPH MECHAM. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY IN SUPPORT OF THE ADMINISTRATIVE OFFICE'S BUDGET FOR FISCAL YEAR 1987. AS YOU MAY KNOW, I WAS APPOINTED DIRECTOR OF THE ADMINISTRATIVE OFFICE BY THE SUPREME COURT IN JULY 1985 TO SUCCEED WILLIAM E. FOLEY, WHO RETIRED. MR. FOLEY HAD A LONG AND DISTINGUISHED TENURE AT THE ADMINISTRATIVE OFFICE, AND I CAN ASSURE YOU THAT I SHALL MAKE EVERY EFFORT TO CONTINUE TO PROVIDE AND BUILD UPON THE HIGH LEVELS OF SERVICE TO THE COURTS, THE PUBLIC, AND THE BAR THAT WERE EXPERIENCED UNDER HIS LEADERSHIP.

AS FOR MYSELF, MR. CHAIRMAN, I HAVE HELD ADMINISTRATIVE POSITIONS IN BOTH THE PUBLIC AND PRIVATE SECTORS, AS WELL AS ACADEMIA. MY APPOINTMENT AS DIRECTOR OF THE ADMINISTRATIVE OFFICE ROUNDS OUT A CAREER IN ALL THREE BRANCHES OF THE FEDERAL GOVERNMENT. I HAVE PROVIDED YOUR STAFF A BIOGRAPHICAL SKETCH WHICH CONTAINS A BRIEF OUTLINE OF MY SERVICE AND EXPERIENCE.

OUR BUDGET FOR 1987, AS APPROVED BY THE JUDICIAL CONFERENCE OF THE UNITED STATES, IS $[illegible],100,000. IT WAS PREPARED PRIOR TO MY TAKING OFFICE. EXCLUDING ADJUSTMENTS TO THE BASE APPROPRIATION, THIS REPRESENTS AN INCREASE OF $1,[illegible] OR [illegible] PERCENT OVER THE AMOUNT AVAILABLE IN FISCAL YEAR 1986. PROVISION HAS BEEN MADE [illegible] YEAR AS WELL AS THE [illegible]

THEREFORE, CONTEMPLATES THE RESTORATION OF POSITIONS REQUESTED IN 1986 THAT WERE DENIED BY CONGRESS, WITH SOME CHANGES IN PRIORITIES.

WE HAVE INCLUDED, AS AN ADJUSTMENT TO BASE, THE RESTORATION OF $1,256,000, WHICH IS BEING SEQUESTERED PURSUANT TO THE GRAMM-RUDMAN-HOLLINGS ACT. IN OUR EFFORTS TO COMPLY WITH THE SEQUESTRATION ORDER, I HAVE, AMONG OTHER THINGS, REDUCED TRAVEL BY 15 PERCENT; DEFERRED THE PROCUREMENT OF EQUIPMENT AND SOME CONTRACTUAL SERVICES; PLACED A LIMITATION ON OVERTIME; AND A FREEZE ON TEMPORARY EMPLOYMENT, INCENTIVE AWARDS, AND TRAINING. WE BELIEVE THAT MANY OF THESE PROGRAMS ARE ESSENTIAL AND SHOULD BE REINSTATED IN FISCAL YEAR 1987. THE DEFERRAL OF EQUIPMENT AND CONTRACTUAL SERVICES IN FISCAL YEAR 1986 WILL INCREASE THE DEMANDS ON OUR APPROPRIATION FOR 1987. IT MUST BE STRESSED THAT THE SAVINGS IN FISCAL YEAR 1986 ARE NOT OF A RECURRING NATURE AND MUST BE RESTORED IF WE ARE TO MAINTAIN THE CURRENT LEVEL OF SERVICES. WE ALSO HAVE REQUESTED THE RESTORATION OF $452,000, WHICH REPRESENTS AN UNOBLIGATED BALANCE CARRIED FORWARD FROM FISCAL YEAR 1985 TO 1986. I AM, HOWEVER, PREPARED TO ABSORB THE $200,000 WHICH REPRESENTS A REDUCTION IN PAY BY THE SENATE LAST YEAR (ITEM 3, PAGE 12-2 OF THE JUSTIFICATIONS).

MR. CHAIRMAN, THE PRIMARY GOAL AND PURPOSE OF THE ADMINISTRATIVE OFFICE IS TO PROVIDE THE COURTS WITH ADMINISTRATIVE AND LOGISTICAL SERVICES WHICH ARE EITHER MANDATED BY THE CONGRESS OR WHICH CAN BE MORE EFFECTIVELY PERFORMED ON A CENTRALIZED BASIS, I.E., THE PROCESSING OF PERSONNEL ACTIONS AND

PAYROLLS, THE FORMULATION AND EXECUTION OF THE BUDGET, THE MAINTENANCE OF ACCOUNTING RECORDS, THE PROCUREMENT OF MAJOR ITEMS OF EQUIPMENT, AND THE COORDINATION OF SPACE AND REQUIRED TENANT ALTERATIONS WITH THE GENERAL SERVICES ADMINISTRATION. MANY OF THESE SERVICES CAN BE CHARACTERIZED AS "NUTS AND BOLTS," WHICH INCREASE IN RATIO AND PROPORTION TO THE INCREASE IN THE NUMBER OF JUDGESHIPS AND THE SUPPORTING PERSONNEL OF THE COURTS. THE ADMINISTRATIVE OFFICE DOES NOT HAVE "PROGRAMS, PROJECTS, OR ACTIVITIES" WHICH CAN BE DEFERRED, CURTAILED, OR CANCELLED WITHOUT SERIOUS ADVERSE AFFECTS. TO THE EXTENT THAT SOME OF THESE FUNCTIONS MAY BE DECENTRALIZED, AT THE OUTSET IT WOULD ONLY RESULT IN A SHIFT OF THE FINANCIAL BURDEN FROM WASHINGTON, D. C. TO THE COURTS AND, CONCEIVABLY, MAY BE MORE TIME CONSUMING AND COSTLY, AT LEAST IN THE SHORT RUN.

THE CHIEF JUSTICE HAS APPOINTED AN AD HOC ADVISORY COMMITTEE OF JUDGES TO ASSIST ME IN IDENTIFYING ORGANIZATIONAL AND MANAGEMENT CHANGES THAT MAY BE APPROPRIATE OR NECESSARY TO IMPROVE THE LEVEL OF SERVICES WE ARE PROVIDING TO THE COURTS. JUDGE EDWARD J. DEVITT (DISTRICT OF MINNESOTA) IS THE CHAIRMAN OF THE COMMITTEE, WHICH ALSO INCLUDES JUDGES JAMES LAWRENCE KING (SOUTHERN DISTRICT OF FLORIDA), ROBERT MCNICHOLS (EASTERN DISTRICT OF WASHINGTON), AND JACK B. WEINSTEIN (EASTERN DISTRICT OF NEW YORK). WITH THE ADVICE AND COUNSEL OF THIS COMMITTEE, I EXPECT TO MAKE SOME CHANGES IN THE ADMINISTRATIVE OFFICE WHICH WILL IMPROVE OUR SERVICES AND, AT THE SAME TIME, REDUCE THE COST OF OUR OPERATIONS. I HAVE ALREADY MADE SOME CHANGES IN KEY PERSONNEL AND HAVE SEVERAL OTHER CHANGES UNDER CONSIDERATION. I

Increases in Rental of Space, Contract Rates, and Charges for Services, Supplies, and Equipment

	F.Y. 1986 Amount Available	Projected Cost Based on Inflation*	Increased Amount
Rental of equipment (office and copy)................	$1,874,000	$1,949,000	$ 75,000
Rental of space.......................................	2,606,000	2,646,000	40,000
Overtime utilities and cleaning........................	122,000	127,000	5,000
Telecommunication services (including FTS)...........	821,000	854,000	33,000
Printing and reproduction..............................	224,000	233,000	9,000
Other services...	1,990,000	2,070,000	80,000
Supplies and materials.................................	575,000	598,000	23,000
Equipment (including lawbooks)........................	320,000	334,000	14,000
Total..			$279,000

*Exclusive of requirements relating to new personnel.

Item 7. Office of Audit and Review (15 positions, $748,000)

The Office of Audit and Review (OAR) (formerly the Office of the Inspector General) serves as an independent oversight and auditing arm of the federal court system. The OAR acts as the independent representative of the Judicial Conference of the United States and as an independent reviewing agent of the Director of the Administrative Office of the United States Courts. In this role, the Office identifies, evaluates, documents, and reports its findings to the appropriate court officials of: (1) United States courts themselves, (2) the Judicial Councils of the circuits, (3) the Administrative Office of the United States Courts, (4) the Federal Judicial Center, and (5) the Judicial Conference of the United States.

The OAR performs the following specific functions:

-- Conducts, on a cyclical basis, management and financial audits of the federal courts in order to ensure compliance with statutory and case law standards, congressional mandates, Judicial Conference policies, Administrative Office and court policies and procedures, as well as accepted principles of management and fiscal integrity. These comprehensive audits provide the judicial system with the means by which problem areas can be identified so that action can be taken to rectify areas of inconsistency. The management audits are currently only being performed every 15 years and the Office is striving to maintain its two-year cycle for the conduct of financial audits.

-- Conducts audits of the internal support structure of the federal judiciary (e.g., the Administrative Office of the United States Courts and the Federal Judicial Center) or a nationwide judiciary program (e.g., District Court Executives or Pretrial Services). The managers of these organizations or programs require an independent problem identification mechanism to allow them to improve management effectiveness and financial accountability where systemic weakness may exist.

-- Conducts "special audits" to investigate possible fraud, waste, or abuse or in cases where a new clerk of court or other key personnel has taken office. These special requests require immediate attention since there is no way of determining when a new clerk will be appointed or when specific cases of malfeasance will arise. These requests consume considerable OAR resources and adversely affect the scheduling and completion of cyclical audits.

Until recently, the Office of Audit and Review had devoted almost all of its resources to performing cyclical management and financial audits. In the past two years, however, the emphasis of OAR's efforts has shifted due to the substantial increase in requests for special audits. Requests for both management and financial special audits have doubled in the last year. In addition, the scope of financial management audits has undergone a steady expansion in recent years in order to provide the courts with more meaningful audits. New programs created by the Congress and the Judicial Conference such as pretrial services, district court executives, and estate administrators require a thorough review in the courts where they have been implemented.

In order to improve the quality and integrity of OAR audits, a number of new procedures have been implemented in recent years. All auditors are now required to submit complete documentation for all findings. Financial auditors now employ statistical sampling techniques as part of their audits. These requirements have resulted in more accurate and complete audits of the courts. They have increased the amount of effort needed to conduct the audits and prepare written reports.

In order to significantly reduce the cycle for management audits and to carry out the functional and special audits assigned to the Office, 15 positions (12 auditors and three secretaries) are requested. The sum of $748,000 is requested for these 15 positions: $498,000 for personnel compensation; $61,000 for related benefits; $84,000 for travel; $60,000 for space rental charges; and $45,000 for communications, supplies, equipment, and other miscellaneous expenses.

Item 8. Criminal Justice Act Division (2 positions, $90,000)

One of the responsibilities of the Criminal Justice Act (CJA) Division is to administer Federal Public Defender organizations as provided in the Criminal Justice Act of 1964, as amended. Title II of the Comprehensive Crime Control Act (CCCA) of 1984, Public Law 98-473, 98 Stat 1837, provides for the establishment of the United States Sentencing Commission. The CCCA requires that the Federal Public Defenders comment on the work and guidelines of the Commission (28 U.S.C. 994(o)). Since this requirement will impact directly on the work of the CJA Division, an attorney advisor position is requested in order to ensure compliance with this statutory responsibility. One clerical position will also be required to support the recent expansion of the professional and technical staff.

The sum of $98,000 is requested for these two positions: $67,000 for personnel compensation; $7,000 for benefits; $7,000 in travel; $8,000 for space rental; and $11,000 for communications, supplies, equipment, and other miscellaneous expenses.

Item 9. Financial Management Division (2 positions, $119,000)

The Accounting Branch of the Financial Management Division is currently developing and implementing new automated accounting systems throughout the federal court system and at the Administrative Office. The branch cannot continue to support these new systems and support the automation effort with present staff. For fiscal year 1987, two systems accountants are requested to support the expansion of these automation systems. The sum of $119,000 is requested for the two positions: $77,000 for personnel compensation; $9,000 for benefits; $14,000 for travel; $8,000 for space rentals; and $4,000 for communications, supplies, equipment, and miscellaneous expenses.

Item 10. Personnel Division (2 positions, $84,000)

The Personnel Division administers a comprehensive program to ensure that personnel positions in the courts are consistent with the policies and practices prescribed in the Judicial Salary Plan. Periodic position classification reviews and on-site audits by the Division's personnel management specialists are the principle means of achieving this important objective. In recent years the federal judiciary has experienced considerable growth and diversity in professional and technical positions, especially those in the area of ADP systems operation, which has severely taxed the limited resources of the Division. Moreover, lack of adequate professional staff has necessarily diminished the frequency of review and audit. To allow the Personnel Division to respond effectively and efficiently to the changes and needs of the judiciary, it is requested that 2 additional personnel management specialist positions be authorized for fiscal year 1987. The sum of $84,000 is requested for these positions: $51,000 for personnel compensation, $7,000 for related benefits, $14,000 for travel, $8,000 for space rental charges, and $4,000 for communications, supplies and miscellaneous expenses.

Item 11. Systems Services Division (13 positions, $558,000)

The Systems Services Division is implementing the recommendations of the Judicial Conference Committee on Judicial Improvements to accelerate the development and implementation of data processing activities throughout the judiciary. A total of 13 additional positions are requested for fiscal year 1987. During fiscal year 1987, the Administrative Office will install an additional 16 computers in various courts throughout the country. The Division assists the users of computers in the coordination of many applications including telecommunications, database management, operating system maintenance, and general trouble shooting. With the installation of the 16 computers in fiscal year 1987, the Combined Operations and Court Systems Branches will be responsible for supporting in excess of ninety computers and other applications. The 13 positions requested will be required in the following areas:

1. Combined Operations Branch

   a. Equipment and Technical Services (4 computer equipment analysts)

      Fiscal Year 1987 will see the major diversification of the larger and more complex computer systems for the courts. With 24 large and 12 smaller systems scheduled for court installation in fiscal year 1987, the site preparation and equipment installation requirements will triple or quadruple over what was necessary when installation schedules involved primarily the smaller systems.

b. Systems Programming (3 computer specialists)

These positions will be required to support the operating systems of over sixty computers which will be geographically dispersed throughout the federal judiciary. In addition, many of the larger computers to be installed will have unique systems programming, database management, and operational requirements. Therefore, support staff familiar with this specific equipment will be necessary.

c. User Services (2 computer systems analysts)

The User Services Section of the Branch will be required to support an additional 36 computer sites in fiscal year 1987. The size and complexity of the hardware and operating systems in conjunction with the more complex applications and larger user base each machine will support will result in an increased number of trouble calls. The additional personnel requested will be required to ensure effective utilization of these systems by court personnel.

II. Court Systems Branch (4 programmer analysts)

The Court Systems Branch, which develops and documents standard application systems, and assists the courts in implementing automated systems will require four additional computer specialists as follows:

-- 1 programmer analyst to develop a new software program for the decentralized, microcomputer-based new Criminal project which replaced the COURTRAN (centralized) Electronic Docketing Criminal System;

-- 1 programmer analyst to install and support an integrated Jury/Financial system, which will provide automated juror selection and juror fees as well as automated reporting accounting functions;

-- 1 programmer analyst to support the Case Management System, which will be installed during 1986. This system will replace the COURTRAN-based Speedy Trial Accounting and Reporting (STARS) and Index systems, and will also provide additional statistical reporting functions; and

-- 1 programmer analyst for the expansion of the Bankruptcy Court Automation Project (BANCAP). This project provides automated notice, docket, index, and administrative reports.

The sum of $656,000 is requested for these 13 positions: $389,000 for personnel compensation; $49,000 for benefits; $70,000 for travel; $83,000 for space rental; and $65,000 for communications, supplies, equipment, and miscellaneous expenses.

AM IN THE PROCESS OF REVIEWING EACH ORGANIZATIONAL UNIT AND THEIR RESPECTIVE FUNCTIONS AND ACTIVITIES TO DETERMINE IF ANY CHANGES IN PRIORITIES ARE NECESSARY. I EXPECT THAT IN SOME AREAS WE WILL NEED TO BEEF UP THE STAFF AND THAT IN OTHER AREAS WE SHOULD BE ABLE TO REDUCE THE LEVEL OF EFFORT.

MR. CHAIRMAN, MY REASON FOR EXPLAINING AT SOME LENGTH THE NEED FOR CHANGE IN THE ADMINISTRATIVE OFFICE AND THE ROLE OF THE AD HOC COMMITTEE IS THAT THE FULL RESULTS OF OUR COMBINED EFFORTS MAY NOT BE KNOWN FOR SOME TIME. AND SINCE IT ALREADY APPEARS THE CHANGES WILL LIKELY HAVE A DOWNWARD IMPACT ON THE ADMINISTRATIVE OFFICE'S FUNDING REQUIREMENTS, I AM PREPARED TO FOREGO ONE-HALF OF THE REQUEST FOR ADDITIONAL PERSONNEL (17 POSITIONS) AT THIS TIME, BUT I WOULD APPRECIATE YOUR AUTHORIZATION TO REALLOCATE PERSONNEL AND RESOURCES AMONG THE VARIOUS ORGANIZATIONAL UNITS OF THE OFFICE. WITH THIS REDUCTION IN PERSONNEL AND RELATED EXPENSES, AN APPROPRIATION OF $[illegible],070,000 INSTEAD OF $[illegible] (A REDUCTION OF $1,044,[illegible]) SHOULD ADEQUATELY SERVE OUR PURPOSE.

MR. CHAIRMAN, I WOULD LIKE TO THANK YOU AGAIN FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU TODAY. SHOULD YOU OR ANY MEMBERS OF YOUR COMMITTEE HAVE ANY QUESTIONS, WE WILL BE PLEASED TO RESPOND.

Mr. Mecham. Thank you very much, Mr. Chairman, Mr. Early. I was going to try to impress you by the fact that I first appeared before this Committee in 1969 and again in 1970 on another appropriations bill, but Judge Markey has been here 14 times. Judge Re every year since 1961. So I shall not mention that I sat at the feet of Mr. Rooney twice back in 1969 and 1970, a most memorable legislator.

It is a great privilege for me to be here. I was appointed in July to take the place of Bill Foley, who retired, and we hope to build upon all the good things he did and render considerable service of value to the bar, the Congress and the judiciary especially.

Our budget request for 1987 as approved by the Judicial Conference of the United States is $32,190,000. You will see at the end of the statement we propose to reduce that. The budget was prepared prior to my taking office.

Excluding adjustments to the base appropriation, this represents an increase of $1,688,000 or 6 percent over the amount available in the current fiscal year of 1986. Provision has been made for 34 positions. Last year we asked for 44, and only 10 were approved. The budget in 1987, therefore, contemplates the restoration of positions requested in 1986 that were denied by Congress with some changes in priorities.

We have included as an adjustment to base the restoration of $1,256,000 which is being sequestered pursuant to the Gramm-Rudman-Hollings Act. In our efforts to comply with the sequestration order, I have, among other things, reduced travel by 15 percent, deferred the procurement of equipment and some contractual services, placed a limitation on overtime, invoked a freeze on temporary employment, incentive awards and training.

We believe that many of these programs are essential and should be reinstated in fiscal year 1987. The deferral of equipment and contractual services in FY 1986 will increase the demands on our appropriations for FY 1987.

It must be stressed that the savings in fiscal year 1986 are not of a recurring nature and must be restored if we are to maintain the current level of services. We have also requested the restoration of $452,000 which represents an unobligated balance carried forward from fiscal year 1985 to 1986 upon the direction of this Committee.

I am, however, prepared to absorb the $200,000 which represents a reduction in pay by the Senate last year.

MISSION OF ADMINISTRATIVE OFFICE

Mr. Chairman and Mr. Early, the primary goal and purpose of the Administrative Office is to provide service to the courts and to the judiciary. Many of these services can be characterized as nuts and bolts which increase in ratio and in proportion to the increase in the number of judgeships and supporting personnel and the caseload of the courts.

The Administrative Office, for the most part, does not have programs, projects or activities which can be deferred, curtailed or cancelled without serious adverse effects. I noted there is a ratio. It is not a one-to-one ratio but it is direct.

Therefore, where the judiciary this year for FY 1987 is requesting an increase in personnel of 9.4 percent, the Administrative office is requesting an increase of only 2.9 percent.

The Chief Justice has appointed an ad hoc committee of judges to assist me in identifying organizational and management changes that may be appropriate or necessary to improve the level of services we are providing to the courts. I have listed the names of the four judges, distinguished judges all.

I might mention to you that before I came aboard, the Chief Justice told me that I should view this in the same way his mother viewed moving into a house when he and his parents moved into an old house which was new to them.

There were quite a number of cracks in the plaster, and the Chief's mother pointed to the plaster and said, "Dear, I want you to fix the cracks in the plaster before you get used to them."

My job now as the head of the Administrative Office is, according to the Chief Justice, who is the chairman of the Judicial Conference, to correct the cracks in the plaster, and with the advice of this distinguished Committee and with the able staff, some of whom are here, such as Ed Garabedian and Dewey Heising, and my own new deputy, Jim Macklin, who has been with the AO for sometime, with their counsel I expect to make some changes in the Administrative Office which will improve our services and at the same time reduce the cost of our operations.

I am in the process with this Committee of reviewing each organizational unit and the respective functions to determine if any changes in priorities are necessary. We have already determined that some changes are needed and we have made some.

I expect that in some areas we will need to beef up staff, but in other areas—I hope more—we should be able to reduce the level of effort.

Mr. Chairman, my reason for explaining at some length the need for change in the Administrative Office and the role of the ad hoc committee created by the Chief Justice is that the full results of our combined efforts may not be known for some time, probably not before the end of this fiscal year, but since it already appears that changes will likely have a downward impact on the Administrative Office's funding requirements, I am prepared to forego one-half of the request for additional personnel, namely 17 positions rather than the 34 which appear in the document that we presented to this Committee at this time.

But I would appreciate your authorization, and I understand the Subcommittee gave that authorization in FY 1985, to reallocate personnel and resources among the various organizational units of the Office.

With this reduction in personnel and related expenses, an appropriation of $31,056,000 instead of $32,100,000, a reduction of $1,044,000, should adequately serve our purpose.

SPACE RENTAL

May I also note, as Judge Markey and Judge Re did, our rental is about 10 percent of the AO budget. GSA wants to increase our rental from $2,427,000 a year to $2,646,000, an increase of $219,000.

Judge Markey feels a little unhappy with paying $2 million rent for a beautiful new building. I can only tell you the junk we are working in is a disgrace. I say that having been in government before and having been in private industry. We are making the best of it, but it is almost an impossible situation, trying to run an agency from six locations.

We are doing the best we can. We are trying to consolidate. I personally do not see why we should have to pay rent at all, but I understand GSA's problems, and in that connection, may I also call to your attention an item with which you may be familiar.

CONSOLIDATION OF ADMINISTRATIVE OFFICE

It appears in the supplemental appropriation estimates for the judiciary. On page S. 86-3 in this particular request. Last year the Senate inserted $2 million in our appropriation to study a new building for the Judiciary at the request of the Chief Justice.

It was inserted conditional upon our obtaining an authorization bill by Congress. Unfortunately at the time of the conference, an authorization bill had not been passed. So the $2 million was deleted.

Unfortunately the Senate had already taken $2 million out of the judiciary's budget. So we took a double cut. We lost the $2 million that was reduced from the Judiciary budget. We also lost the $2 million for the building.

Mr. White, the Architect of the Capitol will appear tomorrow. He has been given statutory authority to plan a new Judiciary building, although there is some question about whose budget it should go in. That is why I am mentioning this to you today.

This will be in a supplemental request. We certainly hope you will be able to give it accelerated treatment if you have some legislation coming along on a fast track. I can assure you the Chief Justice will be most grateful as would I.

Mr. Chairman, members of the Committee, that completes my statement plus an insert or two. I will be pleased to answer any questions. If I cannot field them, Ed Garabedian, who has been with the AO since 1947, can.

ADDITIONAL POSITIONS

Mr. Dwyer. Thank you. You mentioned you were conceding 17 additional positions but still asking for 17.

Mr. Mecham. Asking for 17, yes.

Mr. Dwyer. I wonder if you would tell us what areas you expect to use those 17 additional positions in and their purposes.

Mr. Mecham. As I indicated in my statement, we are in the process of studying this, but I do anticipate that probably some of them would go to the places previously indicated, namely, the automation program for the courts which occupies a substantial portion of our budget.

I would not, however, anticipate having as many new positions go to audit and review as appears in the original statement which we presented. Although that could well happen, I do not think so because we may meet our needs though transfers.

With all the new judges coming in, we need special help in liaison with the General Services Administration to provide adequate quarters. Of the 85 new judgeships created in 1984, some of them still do not have places to hang their hats.

This has been a continuing and vexing problem for the judiciary in not having adequate facilities when needed. I would probably assign a couple of people to assist in that area.

There are perhaps some areas where we may be able to cut back as well. We are just in the process of doing this, and I am erring on the side of trying to be conservative in light of Gramm-Rudman and the needs of this Committee by cutting our request in half. We think we can get by with that. If we can get by with less, we will get by with less, sir.

IMPACT OF SEQUESTRATION

Mr. **Dwyer**. What have you done to absorb the $1,256,000 cut you took because of Gramm-Rudman in the current fiscal year?

Mr. **Mecham**. I have enumerated that, in part, in my statement. I can give you a statement for the record if you like and briefly summarize it. Basically, we are freezing incentive awards and quality step increases for $58,000. We are reducing the amount of funds available for temporary employment and elimination of the temporary secretarial pool by attrition. That is $121,000.

We are reducing the funds available for the payment of overtime by one-half, $55,000. Withdraw 15 percent of the annual allocations for travel, $110,000. Eliminate all training, $50,000. Defer all controllable tenant alterations, contract awards, equipment and furniture purchases for the remainder of the year, $513,000. And savings in positions that have not been filled, $349,000, which yields $1,256,000 or 4.3 percent, the sequestration target.

Mr. **Dwyer**. In your statement, you mentioned the $452,000 that you wanted to carry forward. What would happen if that was not agreed to? How would that impact on your operation?

Mr. **Mecham**. We would have to make substantial additional essential reductions in areas where I think we would be getting into sinew rather than fat.

Mr. **Dwyer**. Mr. Smith.

Mr. **Smith**. No questions.

Mr. **Dwyer**. Mr. Early.

Mr. **Early**. Thank you, Mr. Chairman.

REMODELING OF COURT FACILITIES

I have a little problem which I want to get into. Does the distribution of moneys for the federal courts for repair or remodeling in the states go through your office?

Mr. **Garabedian**. The reimbursable work authorizations where we pay GSA to do that work, yes, they do go through our office. Generally the work is approved by the Judicial Council before we will process a reimburseable work authorization.

The larger projects requiring prospectuses to be approved by Public Works, of course, go directly to Public Works Committees.

Mr. **Mecham**. Anything over $500,000 must go through Congress us.

Mr. EARLY. We heard Judge Hungate and Judge Clark testify today and I probably should have also brought this issue up with them.

There are currently a dozen district court judges in Massachusetts. Now, Mr. Mecham, you got your MPA at Harvard so you must be a little familiar with Massachusetts.

Mr. MECHAM. Yes, it is a great state. I enjoyed my year there.

Mr. EARLY. The second largest city is the city of Worcester which I represent in central Massachusetts, in which there is over a million people within a 30 mile radius.

The law states in Chapter 27 of the United States Code, Section 134 that Massachusetts constitutes one judicial district and that courts shall be held at Boston, New Bedford, Springfield and Worcester.

The Chief Justice and the associates in Massachusetts have interpreted "shall" as discretionary which I have tremendous problems with. I have never heard it interpreted that way. For example, can we reduce their pay? The Constitution says "shall", and therefore, we cannot.

I have been going back and forth for five years on this issue, and I thought it would work itself out. I am still confident that it will. I hope it will not be a major problem. We did a study and the study stated that there shall be a court in Worcester, but then Judge Caffrey, who is the Chief Judge in Massachusetts, interpreted that as discretionary. I have spoken with him and I thought we were going to work it out because we currently have a vacancy.

Worcester has a beautiful Federal courtroom sitting there unoccupied, while Boston is the most expensive space we have in the State of Massachusetts. I understood we recently had two new judges appointed and I assumed one would be assigned full time to Worcester, Massachusetts, but it has not happened.

I have a letter here stating that Judge Caffrey spoke to the two judges after they were appointed and they did not want to sit there.

We have another vacancy now which is about to be filled. I have spoken to both Senator Kerry and Senator Kennedy and I am confident this issue will be brought up during the confirmation hearing.

Do you have a request to remodel Boston for the court?

Mr. GARABEDIAN. At the moment we do.

Mr. EARLY. How much money are they requesting to remodel Boston?

Mr. HEISING. I don't think we have that information available.

Mr. MECHAM. We can get that. I am aware that there is a request.

[The information follows:]

COST OF BOSTON COURT FACILITY RENOVATIONS

In order to provide complete and permanent facilities for the new judges recently appointed under P.L. 98-353, in Boston, space on the second floor was identified and design has begun. The costs are estimated to be approximately $700,000, with the project to be phased over several fiscal years.

Mr. Early. Fine.

Also, Chief Judge Caffrey did send Judge Mazzone to hold the first hearing that we have had up at Worcester that I understand went for a few weeks. He said he is going to rotate the whole dozen judges up there for a week, possibly two weeks.

That still does not satisfy me. We have over 1,000 people who are going to Boston or Springfield. This is about 40 miles, impossible parking conditions, and expensive to both the witnesses or and jurors.

They are not hiring central Massachusetts lawyers because of the expense of three hours round trip back and forth. It is just wrong.

Here we have a state like New Jersey with 7 million people and judges sit in three different places. That is the way it should be in Massachusetts. In Vermont with 511,000 people, they sit in two different places; New Hampshire, with 900,000, they sit in three different places.

I hope this problem can be worked out.

Mr. Mecham. You put your finger on it. It is not within our jurisdiction. Your recitation of the law is accurate.

I notice Judge Markey seemed to agree with you on the interpretation of "shall". I would not presume to make a determination myself because I am not an estimable judge as he is, but if you would let us look at that I would be glad to talk to Judge Caffrey.

Basically, it is a matter for the Federal District Court, and if the Federal District Court does not act then it is a matter for the Circuit Court of Appeals according to the statute.

I think Mr. Garabedian has a statutory reference for you on that point. You are probably already familiar with it.

Mr. Garabedian. The District Court may require that a judge be a resident of Worcester. Place of residency usually is left to the discretion of the judge unless the court determines that there should be a resident judge in, let's say, Worcester or some other place in Massachusetts.

The Judicial Council of the Circuit may order that a judge be resident of Worcester, but that is purely within the discretion of the judge.

Mr. Early. I am not concerned about residency. I don't care where the judge resides as long as court is held in Worcester.

Mr. Garabedian. As far as holding court goes, I think your interpretation of the law is exactly right, that the statute does say a court "shall" be held at Worcester, Massachusetts.

Mr. Mecham. Mr. Garabedian is not our General Counsel, but he does have great experience in this area.

Mr. Early. There is no substitute for experience.

I have gone over this with Judge Caffrey. I have a letter which I will not get into because I am hopeful we can work this out without further dispute or unpleasantness.

Our discretion is to hold up the purse strings, but I am confident that this problem can be worked out without resorting to that.

Mr. Garabedian. Do you need that statutory reference, sir?

28 USC, Section 134.

Mr. Early. Right.

I am concerned about the repairs. I would like to get more information on how much is being spent on renovations.

It probably would take about $1 million to get Worcester set up with personnel etc. . . . We like judges to serve the people, not to be served.

Mr. Mecham. What it would take to get Worcester set up?

How do you pronounce it in Massachusetts?

Mr. Early. Worcester.

Mr. Mecham. Worcester. I should know because my ancestors came from Salem and Enfield, which was part of Springfield in those days.

Mr. Larry Storza handles that in our agency. I am sure he could come up with an estimate for you of what would be required.

[The information follows:]

COST OF WORCESTER COURT FACILITY

To establish a permanent district court facility for one judge at Worcester, Massachusetts, several small executive agencies will have to be relocated to other space. The bankruptcy court also will have to be relocated to another floor. The estimated cost to complete the project in total is approximately $175,000. This, of course, does not include the cost of necessary facilities for the Assistant U.S. Attorneys and U.S. Marshalls.

Mr. Early. In Judge Caffrey's letter back to me on why they should sit in Boston, he said, "I might mention also that the requirement . . . is that the defendant be tried within 70 days of indictment or first appearance before a judicial officer.

"As a practical matter, it makes it very difficult for any Boston-based member of this court, each of whom averages a civil caseload of 665 civil cases plus 25 criminal cases, to schedule several cases that demand a rotation trip to Worcester." I agree with him.

So we will put a full-time court in Worcester and we will not have that particular problem. Again, I don't think it should be a problem and I hope it can be worked out.

I believe a court in Worcester would provide the best service to the peeple; it would be the most economic way to proceed rather than centralizing all our judges in Boston, except for the one who sits in Springfield, Massachusetts.

I will continue to work with you and hope we can work this out.

Mr. Dwyer. Thank you, gentlemen. Thank you, Mr. Mecham. We have a question or two, which we will submit to you for the record.

Mr. Mecham. Very good.

[The questions and the answers submitted thereto follow:]

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

QUESTION:

On page 12.8 you are requesting an increase of 15 positions and $748,000 for the Office of Audit and Review. If the Committee approves these positions, to what extent can you reduce the present fifteen-year cycle in conducting management reviews?

ANSWER:

The additional positions will enable the Office of Audit and Review to achieve a two-year cycle for financial audits; service special requests for audits initiated by the courts (which have increased 440% over the past two years); and initiate functional/internal audits and service referrals of complaints in the judiciary received from the Congress and other governmental agencies. One major functional internal investigative audit is being performed despite the fact that no positions had been specifically provided for this function. The additional positions will enable the Office of Audit and Review to achieve a fifteen-year cycle by eliminating the need to utilize management audit staff to perform the other functions enumerated. Without the additional positions, it may be necessary to abandon the management audits and limit operations to the financial audits, special requests, functional/internal audits, and service of complaint referrals.

QUESTION:

Have you considered contracting out financial audits to reduce your staffing requirements and expenses of travel?

ANSWER:

The Office of Audit and Review is currently developing a standardized audit program to enable contractors to perform routine financial audits of non-appropriated funds. In addition, contractors are now utilized to perform audits of bankruptcy trustees.

QUESTION:

On page 12.9 of the justifications you are requesting two additional positions and $90,000 for your Criminal Justice Act Division to assist in the formulation of comments relating to work and guidelines of the Sentencing Commission. Will you need these positions in fiscal year 1987 considering the fact that the Commission has been given a one-year extension for issuing the guidelines?

Why is the Administrative Office involved rather than the public defender organizations?

ANSWER:

Yes. Undoubtedly because of the federal defenders' experience in federal criminal practice and knowledge of federal criminal laws and procedures, the Sentencing Commission has invited them to submit position papers on sentencing issues and proposed policy statements and guidelines and to actively participate in Commission hearings and related activities. The first public hearings on the guidelines are scheduled for May 1986. During the remainder of fiscal year 1986 and the first six months of fiscal year 1987 (until April 1987), federal defenders will be working with the Sentencing Commission as it formulates its guidelines and policy statements. These two positions will be needed to provide assistance to the defenders throughout this critical period. We also expect that Congress will request the defenders' views as it studies the guidelines during the last half of fiscal year 1987. Thereafter, the defenders are expected to participate in activities relating to guideline revisions based upon appellate review of sentences.

The Criminal Justice Act Division has been tasked with providing support to the federal defenders and its personnel have been in direct contact with Sentencing Commission staff members concerning the defenders' role and activities in the sentencing policy and guideline formulation process. The proximity of Division offices to the United States Sentencing Commission should prove to be advantageous and cost effective.

QUESTION:

With respect to the request on page 12.10 for 13 additional positions and $656,000 for the Systems Services Division, how does this request relate to the request for 35 Systems Administrators for the courts in the request for the "Salaries of Supporting Personnel" appropriation on page 6.3?

ANSWER:

The automation plan to place computers in the courts is a joint program between the Administrative Office, the Federal Judicial Center and the courts. The Administrative Office must have the technical staff to continue and to complete the process of installing computers and associated court applications software in all courts. The courts must have systems administrators to operate the computers and to be responsible for their efficient use.

The efficiencies of the automated systems will allow the circuit courts of appeals and the bankruptcy courts to absorb the system administrator positions from existing staff. The number and complexity of the district court computer systems will require an additional position for the systems administrator in the larger district courts that implement the full range of automated systems. Thirty-five positions were requested for fiscal year 1987.

QUESTION:

I notice that a portion of the additional resources requested for the Systems Services Division is for expansion of the Bankruptcy Court Automation Project (BANCAP). What were the results of the follow-up study on the impact of automation of staffing requirements in bankruptcy offices?

ANSWER:

A follow-up work measurement study showed a savings of 34 positions in bankruptcy clerks' offices resulting from the Bankruptcy Noticing System (BANS). The number of positions saved in the clerks' offices will increase as the number of notices produced by BANS increases. Additional staff savings associated with the use of taped creditor matrices for BANS noticing were noted, however the full impact has not yet been quantified.

The Bankruptcy Court Automation Project (BANCAP) is a system being developed by the Federal Judicial Center. One position was requested for the Systems Services Division to begin the process of transferring the system from the Federal Judicial Center to the Administrative Office. The Center will conduct a cost and a benefit study before BANCAP is transferred.

QUESTION:

Did the automated noticing system (BANS) require additional staffing for the Administrative Office, and, if so, how many positions were added?

ANSWER:

In fiscal year 1983 we received:

1 computer programmer position
2 computer operator positions
2 machine operator positions

In fiscal year 1984 we received:

2 computer programmer positions
1 computer operator position
1 machine operator position
1 distribution clerk position

WEDNESDAY, FEBRUARY 26, 1986.

FEDERAL JUDICIAL CENTER

WITNESSES

A. LEO LEVIN, DIRECTOR
CHARLES NIHAN, DEPUTY DIRECTOR

Mr. DWYER. We go now to the fiscal year 1987 budget request for the Federal Judicial Center. The fiscal 1987 request is $10,226,000 which represents an increase of $1,039,000 over the appropriation for fiscal year 1986 adjusted for sequestration under Public Law 99-177.

We shall insert at this point in the record the justification materials in support of the fiscal year 1987 budget request.

[The justification materials follow:]

THE JUDICIARY

FEDERAL JUDICIAL CENTER

[illegible]

FEDERAL JUDICIAL CENTER
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page No.	Summary of changes:	1987 Request	
		Perm. Pos.	Amount
	Appropriation 1986 (enacted to date)	94	$ 9,600
	Sequestered pursuant to P.L. 99-177	...	-413
	Budget Authority, 1986	...	9,187
	Adjustments to base and built-in changes:		
13.5	1. Restoration of amount sequestered to appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985	...	+413
13.6	2. Cost of within-grade salary advancements	...	+41
13.6	3. Other increases for rental of space, contract rates, and charges for services, travel, printing, supplies, and equipment	...	+195
13.6	4. Restoration of the reduction to the fiscal year 1986 appropriation base	...	+100
	Subtotal, adjustments to base and built-in changes	...	+749
	Program changes:		
13.6	5. Division of Continuing Education and Training	...	+290
	Total increases requested	...	+1,039
	Total appropriation requested, 1987	94	$10,226

FEDERAL JUDICIAL CENTER

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Administration and Support Services	24	$2,813	24	$3,025	24	$ 3,025	...	$ ...
Education and Training	25	3,219	25	3,258	25	3,548	...	+290
Research and Systems Development	45	3,568	45	3,653	45	3,653	...	...
Subtotal	94	9,600	94	9,936	94	10,226	...	+290
Unobligated balance, P.L. 99-177	...	-413	...	.....	...	.....	...	...
Total obligations	94	$9,187	94	$9,936	94	$10,226	...	$+290

Object Classification
(In thousands of dollars)

	1986 Estimate	1987 Estimate	Difference (+) or (-)
11 Personnel compensation	$4,218	$4,253	$+ 35
12 Personnel benefits	525	531	+ 6
21 Travel and transportation of persons	2,147	2,437	+ 290
22 Transportation of things	8	8	+ ...
23 Standard level user charges	553	643	+ 90
Communications, utilities, and miscellaneous charges	495	532	+ 37
24 Printing and reproduction	264	279	+ 15
25 Other services	1,127	1,262	+ 135
26 Supplies and materials	182	189	+ 7
31 Equipment	281	292	+ 11
Subtotal	9,600	10,226	+ 626
Unobligated balance, P.L. 99-177	-413	...	+ 413
Total Obligations	$9,187	$10,226	$+1,039

Relation of Obligations to Outlays
(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net..........	$9,600	$-413	$9,187	$10,226	$+1,039
Obligated balance, start of year...	1,830	...	1,830	1,826	- 4
Obligated balance, end of year.....	-1,909	83	-1,826	-2,027	- 201
Outlays........................	$9,521	$-330	$9,191	$10,025	$+ 834

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions...............	94	94	...
Total compensable workyears:			
Full-time equivalent employment............................	122	122	...
Full-time equivalent of overtime and holiday hours.........	1	1	...

General Statement

This appropriation request is for the operation of the Federal Judicial Center, which was established by an Act of December 20, 1967, P.L. 90-219 (81 Stat. 664). This statute directs the Center "to further the development and adoption of improved judicial administration" in the Federal courts. References to basic statutory authorities are contained in the Digest of Appropriations, The Judiciary, on file with the Appropriations Committees of the Congress and the Office of Management and Budget.

Functional Responsibilities of the Center

The functions of the Federal Judicial Center are outlined in its statute, and include undertaking research on Federal judicial administrative problems, primarily those identified by the courts, the Judicial Conference of the United States, and its Committees; conducting programs of continuing education for judges and other personnel of the Judicial Branch; and presenting recommendations to the Judicial Conference for improved administration and management in the United States courts (28 U.S.C. 620 (b)). These functions are undertaken under the general guidance of the Center's Board, discussed below, as are several other functions identified elsewhere in the statute.

The Center serves as the Federal courts' research and development agency. The Administrative Office of the United States Courts, created by statute in 1939, provides administrative support, management support and policy guidance to the Federal courts. Although the Center is an autonomous agency, it works closely with the Administrative Office to ensure that the courts have the benefit of modern management tools and procedures.

Composition and Duties of the Board

The Center is supervised by a Board of eight individuals, two of whom are permanent members. The Chief Justice of the United States is the permanent Chairman, and the Director of the Administrative Office of the United States Courts is the second permanent member. The Board also includes two active judges of the Courts of Appeals of the United States, three active judges of the District Courts of the United States, and one bankruptcy judge, each selected by the Judicial Conference of the United States for four-year terms. By statute, the Board is responsible for developing overall policy to guide the Center's operations, and to that end, the Board appoints a Director, who is responsible for supervising the Center's staff and carrying out the Center's programs. Pursuant to the exercise of its supervisory responsibility, the Board has reviewed and unanimously approved this appropriation request.

Justification of Changes

For fiscal year 1987, the Federal Judicial Center requests a total appropriation of $10,226,000, a net increase of $1,019,000 over the 1986 amount. Adjustments contained in this appropriation request are a result of inflationary increases, restoration of a reduction to the appropriation base, and a small programmatic increase to support our training efforts.

Item I. Restoration of Amount Sequestered to Appropriation Base Resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 ($411,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $413,000 has been included in this request to restore the sequestered amount to the appropriation base.

Item 2. Cost of Within-Grade Salary Advancements ($41,000)

The sum of $41,000 is requested to provide for within-grade and merit increases for the clerical and professional staff of the Center during fiscal year 1987. This estimate, based upon past experience, takes into account expected savings resulting from normal personnel turnover and filling vacancies at lower rates of pay than were received by the prior incumbents.

Item 3. Other Increases for Rental of Space, Contract Rates, and Charges for Services, Travel, Printing, Supplies, and Equipment ($195,000)

It is estimated that an additional $195,000 will be required in fiscal year 1987 to cover increased charges for space rental, services, travel, supplies, and equipment. Based on the estimate provided by GSA, the rental cost for space occupied by the Center will increase from $553,000 in fiscal year 1986 to $643,000 in fiscal year 1987. The requested increase of $11,000 in travel is due to GSA's increase of the mileage rate for use of privately-owned vehicles for official business from 20.5 cents per mile to 21.5 cents per mile. The projected costs in all other areas set out below are based on an anticipated inflationary increase of four percent:

	FY 1986 Amount Available	Based on Inflation*	Increased Amount
Telecommunication services (including FTS)................	$ 180,000	$ 187,000	$ 7,000
Rental of Space.......	553,000	643,000	90,000
Other rent, communications, and utilities...........	315,000	328,000	13,000
Other services........	1,127,000	1,172,000	45,000
Travel (mileage allowance)..........	2,147,000	2,158,000	11,000
Printing..............	264,000	275,000	11,000
Supplies..............	182,000	189,000	7,000
Equipment (including lawbooks)...........	281,000	292,000	11,000
TOTAL............			$195,000

*Exclusive of requirements related to new personnel.

Item 4. Restoration of the Reduction to the Fiscal Year 1986 Appropriation Base ($100,000)

In the appropriations bill for fiscal year 1986, the Congress reduced the 1986 appropriation base in order to achieve spending levels required by the budget reconciliation process. The sum of $100,000 has been included in this request to restore the appropriation base.

Item 5. Division of Continuing Education and Training ($290,000)

The sum of $290,000 is being requested for our Education and Training Division. This increase will allow the Center to support the recurring training of new judges at circuit workshops and seminars, to conduct follow-up management/supervisory training for probation officers, to conduct training for the hundreds of new support staff that are being added to the judicial system, and to provide additional resources for local training initiatives and thereby contain travel costs associated with training.

Mr. DWYER. We have with us today the Director of the Federal Judicial Center, Mr. A. Leo Levin, and his Deputy Director Charles Nihan.

GENERAL STATEMENT

We will place your prepared statements in the record at this point and you can proceed at your own pace.

[The prepared statement follows:]

TESTIMONY OF
A. LEO LEVIN
DIRECTOR, FEDERAL JUDICIAL CENTER

TO THE

HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE,
THE JUDICIARY AND RELATED AGENCIES

Honorable Neal Smith, Chairman

February 26, 1986

Mr. Chairman, it is a privilege to appear before you and to present the Federal Judicial Center's appropriation request for fiscal year 1987. This request has been reviewed and unanimously approved by the Federal Judicial Center's Board, which is chaired by the Chief Justice of the United States. Our Board has always been mindful of the necessity for fiscal restraint, while yet remaining faithful to the obligation imposed upon it by the Congress to assure that the mission of the Center is fulfilled. All of us are very conscious of the fact that the need for such restraint is particularly acute today. For that reason, we are reducing our submitted request by $513,000. First, we do not ask for restoration of the $413,000 sequestered in fiscal year 1986 pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177 (Gramm-Rudman-Hollings). Second, we do not ask for restoration of $100,000 listed as Item 4 under Adjustment to Base, reflecting "the reduction to the fiscal year 1986 appropriation base."

Accordingly, our budget request for FY-1987 is $9,713,000. This represents an increase of $526,000, of which the sum of $236,000 consists of technical adjustments to base and $290,000, which is primarily the annualization of our fiscal 1985 supplemental appropriation--all detailed below.

It is helpful, first, to view our present situation in perspective. A study recently completed by the Administrative Office shows that in the federal judicial system, the Center's appropriation is the only one that has not kept pace with inflation over the past ten years; indeed, our budget has increased at a rate of less than half the rate of inflation. During that period, our budget authority increased by 46.2 percent while inflation increased 96 percent. Thus, the Center has less real spending authority today than it had a decade ago.

We like to think, and have reason to believe, that during this period our services to the judiciary have substantially increased. I refer not only to the nature and variety of our programs, but also to the substantial increase in the number of people whom we serve--an important element when one considers, e.g., the cost of travel to workshops and seminars.

The growth of the federal judicial system and of the various budgets within the system is well documented by the AO data. As those data show, our record in this regard is unique among federal judicial system budgets. It stands in marked contrast to increases in excess of 200 percent, 250 percent, and 400 percent, for example. Our authorized staff, which today stands at 94, has increased very modestly since 1976. Again, our record stands in marked contrast to the more substantial increases in other personnel rosters within the system. We do not suggest that any of the other increases were not fully justified; on the contrary, the increase in filings and the concommitant increase in the number of judgeships argue otherwise. But we, too, have had our responsibilities increased and we point to this record as an indication of good faith when we say that we are mindful of the need for fiscal restraint.

The Center's record is a tribute to the Chief Justice, to the other members of the Center's Board, and to the senior staff of the Center, all of whom have been dedicated to effecting every possible economy, throughout the life of the Center. We recognize our obligation to continue, and if possible to intensify, that effort. Our hope is that, even though we have been operating "very close to the bone," we will be able to comply with those obligations without serious loss to the system. It would be unrealistic to suggest that we can accomplish Gramm-Rudman-Hollings reductions with no loss whatever to those whom we serve, but we will continue to make every effort to keep those losses to a minimum.

Two further items of background deserve mention before turning to the specific as of the Center's appropriation request. The first involves reallocation of resources. In our March, 1985, submission, made in connection with the Center's FY-1986 appropriation request, we pointed out that the Center had reallocated scant existing resources in order to meet our computer systems development responsibilities. Instead of turning to the Congress for additional funds as we were urged to do by the Judicial Conference of the United States, a variety of alternative strategies were employed. As stated in last year's submission:

> [O]ur reallocation has been accomplished in two ways. First, authorization was given to the Innovations and Systems Development Division to hire an additional twenty temporary technical employees. Funding for these temporary employees was obtained by rigorously examining every spending request and deferring or denying all that were not absolutely essential. In addition, we made every effort to operate more economically in every way we could. Second, after careful examination, four permanent positions were transferred from other Center divisions to the Innovations and Systems Development Division. We are hopeful that these actions will allow the Center to meet the demands of the Judicial Conference while, at the same time, avoiding the need to seek additional resources from the Congress.

To continue that development effort, to comply with the mandate of Gramm-Rudman-Hollings and to live within the budget proposed for FY-1987, continued internal reallocation of resources will be necessary.

Second, I thought to report creation of a new division within the Center. With the unanimous approval of our Board, the Division of Special Educational Services became operational on February 1, 1986. This change--involving no increase in personnel and no increase in expenditures--represents an internal reorganization designed to achieve greater flexibility and administrative efficiency. The new division has responsibility for our educational publications, including reference manuals, annotated bibliographies, and monographs; sentencing institutes and other sentencing education projects; our audiovisual programs; and the development of new programs with respect to computer training. The Continuing Education and Training Division will continue to provide the traditional educational programs that remain of central importance in our overall effort--those that provide orientation and continuing education for judges and supporting personnel through national and regional seminars and workshops, in-court training programs, and supplementary tuition support.

I turn now to our fiscal year 1987 budget request.

Adjustments to Base

Adjustments to base make up $236,000 of the additional amount requested for fiscal year 1987. These adjustments are $90,000 projected by GSA for increases in rental of space, $105,000 for inflationary increases in other object categories, and $41,000 to cover the cost of within-grade salary advancements.

Programmatic Increase

The requested programmatic increase of $290,000 is to be devoted entirely to Education and Training. We believe that our educational programs are cost-effective, that they save more money than they cost. It must be conceded that it is difficult if not impossible to quantify the value of an educational effort; however, dramatic examples of significant returns surface with some frequency. For example, one court reported to us that as a result of a Center juror management workshop that court implemented a change which has resulted in a savings of $500,000 the first year alone. (Lest that be viewed simply as an overly-generous estimate, I should make clear that this figure was developed and verified by the Administrative Office.)

When a judge who has attended a Center program writes that, as a result, he was able to settle what promised to be a protracted trial and to do so promptly, the savings to the system are substantial. Such reports, or similar ones, reach us with relative frequency.

I cannot quantify and will not attempt to estimate the extent to which services such as Bench Comments avoid reversals and the need for new trials. Similarly, it is difficult to estimate what savings are effected by the availability of the Bench Book, particularly to newly appointed district judges. However, I am convinced these services have real economic value to the judicial system.

I believe that the Center's recent work with respect to alternative dispute resolution, drawing heavily on our earlier work in describing and evaluating a wide variety of these programs, has already contributed to the saving of substantial trial time in many courts and can ultimately prove significant in the work of a large number of district courts.

The requested programmatic increase is directly related to our increased obligations resulting from the growth in the number of judgeships and supporting personnel. Of the $290,000 requested, $155,000 is the annualization of a previously enacted supplemental appropriation. The balance of the increase will provide for the training of the influx of new support personnel associated with the passage of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law 98-353. For example, it is anticipated that, with turnover, the Probation Division will have as many as 300 new officers in fiscal year 1987. The need for additional training for chief and deputy chief U.S. probation and pretrial services officers has become acute with the passage of recent legislation which not only increased probation responsibilities, but rendered them more complex.

Conclusion

I and my associates will be pleased to attempt to answer any questions that you may have concerning the Center's fiscal year 1987 budget request or any aspect of the Center's operation.

Mr. **Dwyer**. Go ahead, please, Mr. Levin.

Mr. **Levin**. Thank you. It is a great privilege for me to appear before this Committee once again and to present our appropriation request.

I should like to note and underscore, as I have in the submitted statement, that since the time that the original figures were submitted to this Committee we have reduced our submitted request by $513,000. We are not asking for restoration of the $413,000 sequestered nor of the $100,000 listed as an adjustment to base.

Accordingly, the request for fiscal 1987 is $9,713,000. This does represent an increase of which the sum of $236,000 consists of technical adjustments to base—we will deal with that later—and $290,000, all for education and training, primarily the annualization of our fiscal 1985 supplemental.

A TEN-YEAR PERSPECTIVE

Permit me, if I may, to take a moment to view our present situation in perspective. The Administrative Office did a study of the Federal judicial system budgets over the past ten years and noted that the Federal Judicial Center budget over this decade increased by less than 50 percent of the increase in inflation.

During this period when, as I say, in terms of real spending authority we have less than we had a decade ago, we have reason to believe—people tell us—that our services to the judiciary have increased: increased in variety, increased in quality, and certainly increased in terms of the number of people that we serve.

We are indebted not only to the Chief Justice, but to this Committee for suggestions in the past. I am just mentioning this to indicate good faith when we say that we are making every effort to make every dollar count; we are working close to the bone and intend to do so in the future.

A few details with respect to adjustments to base and to our programmatic increase:

The adjustments to base include $90,000 projected by GSA for increases in rental (SLUC); $105,000 for other inflationary increases; and only $41,000 to cover the cost of within-grade salary advancements.

On the $290,000, for education and training programs, I think I should underscore that, in our view, these programs are cost-effective in the sense that we believe they save more money than they cost. I will give you just an example or two.

As a result of one Jury Management Workshop, one of the courts wrote us and said, "We have saved a half million dollars in one year from what we learned at that workshop." Actually, they wrote and they used a larger figure, but we are using the figure developed through the Administrative Office. Now, that is what we call cost-effective.

A judge goes to a workshop and writes me afterwards, full of delight, about a case that was due for an extended trial. He was able to terminate it satisfactorily, by settlement of the parties, as a result of certain things that he learned at our program.

This, in our judgment, is what we call cost-effective.

There are a lot of other things that lead us to think our work is cost-effective. In any event, I should like to suggest that $155,000 is the annualization of the previously enacted supplemental. The growth in the number of supporting personnel, which comes with the growth in the number of judgeships, and the new complexities in probation and pretrial services offices, we believe justify and require us to submit a request for this additional amount, which as I say brings us to a grand total of $9,713,000 for fiscal 1987.

The Deputy Director of the Center, Mr. Charles Nihan, who has been here many times before, is with me. We would be very pleased to attempt to answer any questions that you may have.

IMPACT OF SEQUESTRATION

Mr. **Dwyer**. The Committee appreciates your constraint under Gramm-Rudman.

What would be the impact on your activities if, under Gramm-Rudman, you are required to take a further reduction in 1987?

Mr. **Levin**. If we were required to take a further reduction, we would go back to our Board, which maintains a very active policy posture in this area. If we could not get this funding—I can identify another Jury Management Program of the kind that saved that half million; and that was not a onetime saving, it is a recurring saving of a certain order of magnitude—we would lose that.

I have some other identified programs that we would probably not do, some probation and pretrial service officer regional programs. Cutting that training can affect both the quality and ultimately the cost of services in the field. There is one computer systems administrator course that we probably would have to give up that particular year.

The Board has taken the position that we will not cut judicial education. That is at least the top priority.

This is the best that I can tell you about the particular things that we would have to cut.

We have been operating, I think it honest to say, very close to the bone because, as you can see, we have expanded our services: I mean, literally. This is what the judges tell us and this is what we believe.

At the same time, we have not kept pace even with half of inflation.

The Chief Justice gets a lot of credit for this, too. He is personally interested in it, the board is supportive, and the staff has been superb. Mr. Nihan has been superb and the others have been superb.

RECOMMENDATIONS TO THE JUDICIAL CONFERENCE

Mr **Dwyer**. On page 13.5 of the justifications you list the functional responsibilities of the Federal Judicial Center. In carrying out these responsibilities, would you outline briefly what recommendations you have made to the Judicial Conference of the United States for improved administration and management in the U.S. Courts?

Mr. **Levin**. Yes, Mr. Chairman, I would be very pleased to do that.

Let me start with one of the most obvious ones involving the impact of our research. As you know, the Federal Rules of Civil Procedure and the other rules of procedure go through the Judicial Conference. We work with their Committees.

If you look at the Advisory Committee notes to the 1983 amendments to the Federal Rules of Civil Procedure, there are five separate citations to Center research reports which were clearly influential. These were not simply citations.

It is very clear that what we uncovered in our work and suggested to them, they adopted, and they credited us.

Let me mention another example. We did a study through our Systems Division of audio recording as a method of court reporting. We found that it was accurate, timely, cost-effective, and could save a lot of money. We, in effect, recommended and the Judicial Conference adopted the notion that this should be a permissible alternative to other forms of court reporting.

Let me give you another example. This is, in a sense, symbolic of a much larger contribution. The Judicial Conference of the United States, on our recommendation, has approved electronic dockets—appellate and trial—as an alternative to manually-entered dockets.

Go next to arbitration. We discussed alternative dispute resolution at previous hearings. We have done studies evaluating what went on in two courts. In one court alone, they estimate--and we support that, we find that—that probably 50 percent of cases in the categories going to arbitration do not require trials whereas some years before they would have required trials. That is in your neighboring state, the Eastern District of Pennsylvania.

We continue to be involved in arbitration because we think there are more savings to the system and more litigant satisfaction down that route. We have done a lot in that area.

We did a library study a number of years ago, with recommendations which went straight to the Judicial Conference. It was a massive work.

It involved making a rational structure out of the library system, including emphasis on shared collections. The recommendations were adopted by the Judicial Conference, implemented. That is one example.

Let me give you another one: recommended procedures for handling prisoner civil rights cases. We published this to help judges. The caseload in that area has been burgeoning.

The Judicial Conference, at a subsequent date, recommended to all Federal judges that they adopt the recommendations of this work, which we had produced with a committee of judges.

RISK-PREDICTION SCALE

Probation. Here is one of the most dramatic things to me, at least, as a layman in this area. We developed what we call a risk-prediction scale, RPS-80. It indicates the appropriate intensity of probation supervision depending on a number of things in the history of the probationer and in the profile of the probationer.

It has been adopted by the Probation Committee of the Judicial Conference for use throughout the Federal system, and I am told that it has been adopted in some states as well.

We did a study on mandatory sentences that a Committee of this House said was persuasive in demonstrating a certain approach would not work and another one would.

There are a number of other things. Let me just mention only one more, lest I go into too much detail.

One of the difficult things, as this Committee knows and as the Members of this House know, is the business of projecting the need for new judgeships. I don't mean projecting in the future, but evaluating the need in light of a given increase in filings.

This is very difficult because an antitrust case is not a fender-bender, or a multi-defendant 17-count drug conspiracy case is not the equivalent of a student loan case.

How do you, in a responsible way, turn filings into weighted caseload filings? We have done a number of studies and we have a new method we are testing now with some pilot courts to see if we can evaluate caseloads in a better manner, with less burden on the judges and yet yield more information.

This is for a Judicial Conference Committee and at their suggestion, their desire. My guess is, if it works as we hope it will, again it will be translated into affirmative action by them; that would be helpful both to the system and to the Congress.

These are the things I can tell you about, Mr. Chairman, that we are proud of. Mr. Nihan and I will be glad to answer any questions you might have.

Mr. DWYER. Thank you for an excellent presentation, Mr. Levin, of your case.

WEDNESDAY, FEBRUARY 26, 1986.

UNITED STATES SENTENCING COMMISSION

WITNESSES

JUDGE WILLIAM W. WILKINS, CHAIRMAN
KAY KNAPP, STAFF DIRECTOR
DENIS HAUPTLY, GENERAL COUNSEL

Mr. DWYER. The next item that we shall consider is the fiscal year 1987 budget request for the United States Sentencing Commission. The request is for $6,500,000, which represents an increase of $5,447,000 above the appropriation for fiscal year 1986, adjusted for sequestration under Public Law 99-177.

We shall insert at this point in the record, the justification material submitted in support of this request.

[The justification material follows:]

Mr. DWYER. With us today to testify in support of this request is the Honorable William W. Wilkins, Chairman of the United States Sentencing Commission.

BIOGRAPHICAL SKETCH

Since this is your first appearance, Judge Wilkins, before the Committee, we insert your biographical sketch in the record at this point.

[The biographical sketch follows:]

WILLIAM W. WILKINS, JR.

PERSONAL DATA

Born March 29, 1942.
Married to Carolyn L. Adams, three children.
Deacon, First Baptist Church of Greenville, South Carolina.

PRESENT POSITION

United States District Judge for the District of South Carolina.
Chairman, United States Sentencing Commission.

LEGAL EXPERIENCE

United States District Judge—Appointed July 22, 1981.
Solicitor—Elected November 1974, re-elected November 1978.
Partner—Wilkins and Wilkins, Attorneys, 1972-1976.
Instructor (part-time), Greenville Technical College: Constitutional Law, Family Law, Criminal Law, 1973-1978.
Legislative Aide, U.S. Senator Strom Thurmond, 1970-1971.
Law Clerk, Chief Judge Clement F. Haynsworth, Jr., U.S. Court of Appeals for the Fourth Circuit, 1969-1970.
Captain, U.S. Army, 1967-1969.

EDUCATION

Public Schools, Greenville County, South Carolina.
Davidson College, B.A. Degree.
University of South Carolina School of Law, J.D. Degree.
Numerous schools and seminars covering a variety of legal subjects.

PROFESSIONAL ACTIVITIES

Admitted to Practice Before:
United States Supreme Court.
South Carolina Supreme Court.
United States Court of Appeals, Fourth Circuit.
United States District Court for the District of South Carolina.
Member:
South Carolina Bar Association.
South Carolina Trial Lawyers Association.
National District Attorneys Association.
South Carolina Solicitors Association.
Phi Delta Phi Legal Fraternity.
Federal Bar Association.

ACTIVITIES AND HONORS

Outstanding Graduate of the Year Award, 1967 (Presented by the U.S.C. School of Law Faculty).

Outstanding Graduate of the Year Award, 1967 (Presented by Phi Delta Phi International Legal Fraternity).

Editor-in-Chief, South Carolina Law Quarterly, 1967.
Captain, South Carolina Moot Court Team, 1967.
Member, Order of Wig and Robe Academic Society, 1967.
Winner, AM JUR Award, Labor Law, 1967.

Winner, Samuel L. Prince Moot Court Award, 1965.

Recipient, Army Commendation Medal for Meritorious Service, 1969.

Chairman, Greenville County Literacy Society, 1973.

Recipient, Service to Mankind Award, Sertoma International 1975.

Recipient, Service to Mankind Award, Heritage Club, 1976.

Recipient, Distinguished Service Award, Wade Hampton/Taylors Jaycees, 1977

Recipient, Distinguished Service Award, Bonner Kidd Home, 1978

Recipient, Award of Appreciation for Outstanding Public Service, Home Builders Association of Greenville, 1979.

Recipient, Outstanding Service Award, South Carolina Solicitors Association, 1982.

Chairman, Paralegal Advisory Committee, Greenville Technical College, 1980-Present.

Lecturer, Taft Seminar, Clemson University, 1976-1980.

Director, YMCA Metropolitan Board, 1979.

Member, Governor's Committee on Criminal Justice, Crime and Delinquency, 1975-1980.

GENERAL STATEMENT

Mr. DWYER. We will insert your prepared statement in the record and then you may proceed at your own pace.

[The prepared statement follows:]

TESTIMONY OF WILLIAM W. WILKINS, JR.
BEFORE THE SUBCOMMITTEE ON APPROPRIATIONS FOR THE DEPARTMENT OF COMMERCE, JUSTICE AND STATE, THE JUDICIARY AND RELATED AGENCIES

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today on behalf of the United States Sentencing Commission. Some months ago, shortly after the members of the Commission assumed their offices, and at a time when our needs and the resources needed to achieve them were uncertain, a budget was prepared for the Commission.

In the interim, we have had the opportunity to focus more on our fiscal needs, particularly our staff requirements. I am pleased to say that this reevaluation has led to a significant reduction in our request for appropriations for fiscal year 1986-1987. With careful management, we believe that we can fulfill our Congressional mandate during the next fiscal year with an appropriation of approximately $6 million instead of the $6.5 million dollars indicated in our initial budget request. We have previously forwarded to you an explanation of the proposed reductions and I hope that the changes are clear.

Having said that, I would be less than candid if I did not note that this is a new agency with a new mission. There are no precedents at the federal level for what we are doing. Moreover, our task during the year in question is a particularly onerous one. By statute, and after a recent extension of our deadline, we are required to complete a major task in a very short time. An initial set of guidelines describing with particularity all

THE JUDICIARY

UNITED STATES SENTENCING COMMISSION

Summary of Requirements

Appropriation 1986 (enacted to date)	$1,100,000
Sequestered pursuant to P.L. 99-177	-47,000
Budget Authority, 1986	1,053,000
1987 budget estimate	6,500,000
Proposed Increase	5,447,000

Appropriation Language

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of Chapter 58 of Title 28, United States Code, [$1,100,000, to remain available until expended]. $6,500,000

UNITED STATES SENTENCING COMMISSION
FISCAL YEAR 1987
(Dollar amounts in thousands)

		1987 Request	
	Summary of changes:	Perm. Pos.	Amount
	Appropriation 1986 (enacted to date)	50	$1,100
	Sequestered pursuant to P.L. 99-177	...	-47
	Budget Authority, 1986	...	1,053
Page No.	Adjustments to base and built-in changes:		
16.5	1. Increase required to fund the Commission on an annual basis	+9	+5,447
	Total appropriation requested, 1987	59	$6,500

UNITED STATES SENTENCING COMMISSION

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent	1986 Appropriation		1986 Adjusted (Base for 1987)		1987 Request		Increase 1987 over 1986 as Adjusted	
Comparison by activities:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Salaries and expenses	50	$3,450	59	$6,500	59	$6,500	...	$.....
Sequestered pursuant to P.L. 99-177	...	-47	...	.....	...	.....	...	.....
Total obligations	...	3,403	59	6,500	59	6,500	...	.....
Unobligated balance available, start of year	...	-2,350	...	.....	...	.....	...	.....
Budget Authority	50	$1,053	59	$6,500	59	$6,500	...	$.....

Object Classification
(In thousands of dollars)

		1986 Estimate	1987 Estimate	Difference (+) or (-)
11	Personnel compensation	$1,273	$2,457	$+1,184
12	Personnel benefits	247	380	+ 133
21	Travel and transportation of persons	210	450	+ 240
23	Standard level user charges	300	398	+ 98
	Communications, utilities, and other rent	25	34	+ 9
24	Printing and reproduction	75	200	+ 125
25	Other services	1,105	2,483	+1,378
26	Supplies and materials	25	33	+ 8
31	Equipment	190	65	- 125
	Subtotal	3,450	6,500	+3,050
	Sequestered pursuant to P.L. 99-177	-47	.....	+47
	Budget Authority	$3,403	$6,500	$+3,097

Relation of Obligations to Outlays
(In thousands of dollars)

	1986			1987	Difference (+)
	Total	Sequestered	Estimate	Estimate	or (-)
Total obligations, net........	$3,450	-47	$3,403	$6,500	$+3,097
Obligated balance, start of year.....	...	...	...	646	+646
Obligated balance, end of year.....	-651	5	-646	-574	+72
Outlays........	$2,799	-42	$2,757	$6,572	$+3,815

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions	50	59	+9
Total compensable workyears: Full-time equivalent employment	37	59	+22

Justification

Title II of Public Law 98-473, which was signed by the President on October 12, 1984, enacted the Comprehensive Crime Control Act of 1984. Chapter II of that Act created the United States Sentencing Commission as an independent commission within the Judicial Branch. The purposes of the Commission are to establish sentencing guidelines for the United States district courts and other sentencing policies and practices for the Federal criminal justice system. The Commission was also charged with developing means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in new section 3553(a)(2) of Title 18, United States Code, by section 212(a) of that Act.

On October [illegible], the Senate confirmed the seven commissioners appointed by the President. Supporting staff members are now being selected and it is expected that the Commission will be in full operation [illegible]. The initial sentencing guidelines are to be submitted to the Congress on or before April [illegible].

[illegible]

[illegible]

	Permanent Positions	Amount
Compensation:		
1. Commissioners and Staff		
Commissioners	7	$ 337,300
Clerks for Commissioners	7	365,834
Secretaries	7	184,667
Research Associates	2	75,198
Executive Secretaries for Attorney General Designee	2	43,608
Subtotal	25	1,006,607
Program Personnel		
Office of the Director	[illegible]	[illegible]
Office of the General Counsel	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
Subtotal	[illegible]	[illegible]
Total, Compensation	[illegible]	[illegible]
Benefits		[illegible]
Total, Personnel Costs		[illegible]
Other Than Personnel Expenses		
[illegible]		[illegible]

sentences for all federal offenses, and considering the pertinent characteristics of all offenders, must be submitted to Congress on or before April 13, 1987.

Prior to that submission, complex research projects must be completed in a very short period of time. Painstaking legal analysis of every federal criminal statute must be completed. Hearings must be held to give a broad range of interested parties an opportunity to consider our work product.

All of these items are fairly expensive. Yet, at this point, we do not know how expensive they will be. For instance, it may be wise to do some of our work over the next few months through contracts. The amount of manpower needed between now and April 1987 may bear no relationship to the Commission's long-term needs. The use of outside resources for short-term projects is a viable alternative to the employment of full-time staff. This budget assumes the use of a significant level of outside resources.

On the other hand, and as a substantive matter, it may not be wise to allow outside parties to have any significant input to the sensitive work which the members of the Commission have been personally charged with.

The budget has been drafted for the purpose of keeping these options open, to remain flexible in the face of considerable uncertainty. At this point in the Commission's history I see no alternative. Our deadline looms directly ahead of us and any failure to meet that deadline in this vital task because of relatively slight resource failures would be counterproductive.

Which is not to say that we are not keenly aware of the need for a prudent management of the public purse. Over the past few weeks we have instituted a policy of centralized budgetary authority. In the first two months of the Commission's existence each member took some responsibility for performing the incredible array of tasks that a new federal agency must confront. Today, though, the substantive work of the Commission is well underway, as it had to be. Recently, the Commission has delegated authority to expend funds to me, after screening by our Staff Director, Kay Knapp. Should I reject a request for expending funds from any member of the Commission or staff, that person is free to raise the matter with the full Commission at their next meeting.

A subcommittee structure has been developed as well which will provide a means for structuring decisions on the most significant items before us. From an appropriations perspective the most important of these subcommittees deal with administration and research. The former will deal with personnel matters and the latter will prepare research options for the full Commission.

The personnel aspects of the budget have been pared down significantly since the original submission. The revision provides for fewer employees at lower grades. We believe that it represents a realistic assessment of our needs over the next year. We have proceeded carefully in filling positions. Our pending deadline requires us to emphasize the hiring of experienced people. But we also expect senior attorneys and researchers to be more productive than less-seasoned people.

Research related items consume a substantial portion of the total amount requested. The statute creating the Commission mandates some research programs. Others are inherently necessary if we are to properly complete the task that Congress has given us. Such projects include an effort to determine what impact the guidelines we will issue in fourteen short months will have on the federal prison system. We should find out, as well, the impact on the probation system and the courts.

It is obvious that we must rank offenses according to relative severity. Doing so will require some degree of sampling of attitudes. We cannot pretend that the views of the seven commissioners and the two ex officio members will be so enlightened as to be conclusive.

Numerous other questions should be answered. Are fines an effective means of carrying out the purposes of the criminal justice system and, if so, in what cases might fines be appropriately imposed? What roles should the concepts of deterrence and incapacitation play in the imposition of criminal sanctions? Can we measure that concept we call just desserts? What alternatives to incarceration are effective, and for which crimes and which offenders? Estimating the costs of these and other research projects is extremely difficult. That is especially true when we have little time to do so. It is my personal hope that when we appear before you next year we will be able to say that not all of the money we are now requesting for research was needed. But I can give you no firm assurances on that point.

The next major item in our budget is rental for space. We have negotiated a lease at very favorable terms (20 percent below the other federal agency in the building). While that space is being cut up to our needs we have obtained free space in the same building as part of our lease. In addition, the lease requires the landlord to pay certain above-building standards costs. Since we have not used up that allowance, the remaining funds will be an offset against rent. The result of this is that we will have some four months of rent free space. To this date we have not spent a cent of the taxpayers' money on office space.

Travel, equipment and supplies also represent relatively large portions of our request. The travel budget is an estimation. At some point in 1987 we must seek public comment on our proposed guidelines. We could confine these efforts to Washington, D. C. but it is our view that we would be better informed if our hearings ranged beyond the beltway. Thus we expect that the Commission or at least some commissioners will hold hearings around the country late this year or early next year. In addition we expect that various experts will be brought in to advise the Commission over the next few months.

Our equipment needs involve all of the normal office equipment: word processors, copiers, dictation equipment. In addition we will need a substantial number of computers. Much of our work will involve the analysis of data and the testing of various suppositions through the use of data. The commissioners, the researchers, and, to some degree, the legal staff, will need to have ready access to the appropriate data. Computers represent the only practical way of doing so.

It is my personal wish to proceed as frugally as the mission permits in expenditures. I hope to come back to you next year and advise you that we have not spent all of the funds available and that we will need less funds for 1987-1988. But our needs are so uncertain and our experience so slight that I hesitate to make a commitment to that goal. The test will come in our performance over the next fiscal year. If our needs are less than our request then we can all feel satisfied. If our needs are greater than that then we fully expect that we will have to give specific justifications for such differences.

I appreciate the time you have given me this morning and will be happy to answer any questions that you may have.

CHANGES IN REQUEST

The following changes are made in the compensation portion of the U. S. Sentencing Commission portion of the Judiciary Budget Request (p. 16.5).

1. Commissioners and Staff	
Clerks for Commissioners	- $239,358
Executive Secretaries	- $ 43,608
2. Program Personnel	
Office of the Director	+ $ 8,790
Office of the General Counsel	- $ 44,606
Research Branch	- $ 33,520
Legislative Branch	- $ 74,066
Total Reduction	$426,368
Estimated Benefits Reduction	$ 66,087
	$492,455

Judge WILKINS. Thank you very much, Chairman Dwyer. As you point out, this is my first appearance, but I assure you I have learned pretty quickly. I wish you would pass on to Mr. Early that the Sentencing Commission will hold just as many public hearings in this courthouse in Worcester that he deems advisable.

Mr. DWYER. Well, that is an advisable educational technique. [Laughter.]

Judge WILKINS. I have submitted my testimony earlier and I will not read it to you, but I will just make a few brief remarks.

Before I go on, let me introduce Ms. Kay Knapp, to my right, who is the Staff Director of the Sentencing Commission.

Mr. DWYER. Madam Director.

Judge WILKINS. To my left is Denis Hauptly, who is the General Counsel.

SENTENCING COMMISSION RESPONSIBILITIES

The Sentencing Commission, as I am sure you are aware, is charged with numerous responsibilities. The two most pressing and perhaps the most important responsibilities are to develop a national sentencing policy and pursuant to that policy, develop mandatory guidelines which must be submitted to the Congress by April 13, 1987.

Now, since this budget was prepared a few months ago, we have been getting ourselves organized and have had an opportunity to focus on it from experience in the concrete rather than from the abstract projection that was required when this was submitted.

We were seven Commissioners recently appointed and confirmed by the Senate on October 29 of 1985, and we have begun to work and organize. You can imagine, Mr. Chairman, all of the things that are required of a nonsubstantive nature just to get moving.

Since that time, we have had an opportunity to see where we are going. I submitted earlier a change in the initial appropriation that you referred to, which will reduce the amount that we are requesting from $[illegible] million to approximately $[illegible] million. These changes are reflected in the document at the end of my testimony, submitted earlier.

Most of these changes come about in reduction of personnel salaries and deletion of certain personnel positions that were, at one time, deemed necessary, but our experience has shown that we will not need all of those positions, all those necessary salaries.

In fact, we have hired some people that were budgeted for a higher salary at a lower level. Consequently, that reduction is automatic and is reflected in that change that we have submitted, and we hope that it will be incorporated into the budget request so that the true request will be reflected.

I might add, too, that this budget that is submitted today is really the first budget that the Sentencing Commission has. As you know, the Congress previously authorized $[illegible] as start-up funds and we have been running on that seed money, which will see us through September of this particular year.

Prior to the submission of these mandatory guidelines which we are now working on, we have to do a number of things, a number of research projects. We have to legally analyze all of the Federal statutes which number in excess of 2,500 as we develop guidelines for each statute and each multiple of offender characteristics that we determine relevant.

This deadline that moves ahead of us is pressing on. As I say, we must complete this first stage of our work by April of next year.

As far as the budget is concerned, we have instituted a centralized budgetary authority. The personnel aspects have been pared down. We are carefully filling out staff positions with the emphasis on hiring experienced people, seeking quality rather than quantity for our research and legal departments.

The statute that created this Commission mandates a number of research projects. There are numerous other projects that must be completed in order for us to intelligently draft guidelines which will be submitted to the Congress.

OFFICE SPACE

A major item of our budget was rental of office space. We have negotiated what I believe to be, and have been told is a very favorable lease. It is 20 percent below another Federal agency occupying the same building.

Since November of last year, we have been occupying temporary space that has been provided at no cost. As part of the lease, the landlord agreed to provide us with the space until our permanent place can be constructed and made available, which I am glad is next Monday. That is when we move to our permanent space.

PUBLIC HEARINGS

Travel, equipment and supplies represent a relatively large part of our request. This year, we are required by statute, as well as next year, to seek public comment, to obtain public perception and public input, on our guidelines and the work that we are doing.

The law does not require that these public hearings be held outside of Washington, DC, although it gives the discretion to the Commission. It is our view that we should, perhaps, range beyond the Beltway in order to obtain wide public attention as well as input to this very important work.

Consequently, we intend, if budgetary limitations allow, to hold public hearings throughout the United States over the next 12 months. Of course, this requires a great deal of advance work, a great deal of planning, and it is an extensive project. But, in the long run, I think it will provide us with information from all disciplines who are interested in the justice system and allow our guidelines to clearly be representative of the view of the American people.

COMPUTERS AND DATA PROCESSING

The last item I will bring to you attention, just as a summary, is that the word processors, copiers, dictation equipment and a substantial number of computers are very expensive items, but there is no way that the data collection task assigned to us by the legislation can be accomplished without the use of this type of equipment.

I hope next year to come to you and advise you that we have not spent all of the funds that have been made available; but, quite frankly, we are a new Commission. We are starting something that has never been tried at the Federal level before and we are giving you our best estimate.

We believe it to be an accurate one, but experience only will tell exactly what our budget requirements are. I would only hope that we would err in favor of budgeting funds that will not be spent rather than find ourselves close to having to meet the congressional deadline and budgetary constraints, and restrict our activity.

I appreciate the opportunity to appear, Mr. Chairman. We will be glad to answer any questions.

Mr. DWYER. Thank you, Judge.

COMMISSION MEMBERSHIP

Have all the Commissioners been appointed?

Judge WILKINS. Yes, sir. All were appointed and took the oath of office on October the 29th, as I recall, of '85.

Mr. DWYER. So that they have all reported for duty.

Judge WILKINS. Oh, yes, sir.

Mr. DWYER. Would you provide us, for the record, with a list of the Commissioners and their terms of appointment?

Judge WILKINS. I think I have that available. Yes, sir. I have that right here.

[The information follows:]

THE UNITED STATES SENTENCING COMMISSION

WASHINGTON, D.C. 20530

William W. Wilkins, Jr., Chairman
Michael K. Block
Stephen G. Breyer
Helen G. Corrothers
George E. MacKinnon
Ilene H. Nagel
Paul H. Robinson
Benjamin F. Baer (ex officio)
Ronald L. Gainer (ex officio)

The voting members of the United States Sentencing Commission were nominated by President Ronald Reagan on September 17, 1985. The seven were confirmed by the Senate October 16, 1985 and received their commissions signed by the President and Attorney General Edwin Meese III on October 17, 1985. The Commissioners took the oath of office from Chief Justice Warren Burger on October 29, 1985. The Commission's voting members are appointed for six year terms, except that the initial terms are staggered. Two additional members of the Commission are designated under statute as ex officio -- the Attorney General (or his designee) and the Chairman of the United States Parole Commission.

Voting Members

Chairman Wilkins	6 years
Commissioner Nagel	6 years
Commissioner Block	4 years
Commissioner Corrothers	4 years
Commissioner MacKinnon	4 years
Commissioner Breyer	2 years
Commissioner Robinson	2 years

Non Voting Members

Ron Gainer - Attorney General designee
Ben Baer - Chairman, U. S. Parole Commission

OFFICE SPACE

Mr. DWYER. Where is your office going to be located?

Judge WILKINS. It is a building known as National Place located between 13th and 14th Streets on F Street. It is a new building that has been constructed. In fact, it is a joint venture between a private developer and the United States Government.

Mr. DWYER. Do you think that the 20 percent rental differential might be caused by the view onto 14th Street?

Judge WILKINS. Well, quite frankly, part of our offices look out over the airport and Washington Monument. So it is a right good view.

Mr. DWYER. Yes.

Judge WILKINS. But I think we did some pretty good negotiating. Also, they needed to fill the space, I think too; but we do have to enter on 14th Street. That may have something to do with it. [Laughter.]

PUBLIC HEARINGS

Mr. DWYER. Have you agreed on how many public hearings you are going to have? I think that it is, as the statute provides, an excellent idea.

Judge WILKINS. We have not agreed on any number. I would anticipate not more than a dozen, but perhaps a few less than that. We need to be sure that we can spread it out so that those can come from regions where it will not be too difficult.

Mr. DWYER. It will be interesting to see how you divide the country up into eight or nine regions to get a cross section of input.

Judge WILKINS. Yes, sir. It is important.

RESEARCH

Mr. DWYER. Have you awarded any major research contracts, yet?

Judge WILKINS. No, we have not. We hired our Research Director last week and he is to start work with us in a couple of weeks. We really thought it would be inadvisable to enter into contracts without his input.

I might add, it is a very difficult task to find qualified people to fill these top positions mid-year and that has delayed us somewhat; but we did hold back on those contracts.

We have one now underway that we have not awarded, but we just are ready to start letting bids on it.

Mr. DWYER. The statute provides that you advise the Congress by April of 1987. Are you going to make that date?

Judge WILKINS. Yes, sir.

Mr. DWYER. You have a tough year in front of you.

Judge WILKINS. Tougher than I imagined.

Mr. DWYER. Yes.

COMPUTERS AND DATA PROCESSING

Your budget lists $900,000 for computer operation. Are you developing your own computer facility?

Judge **WILKINS**. Yes, we are. Ms. Knapp is very familiar with the operation of our computers. She would be glad to answer that in more detail if you would like.

Ms. **KNAPP**. Thank you.

Mr. Chairman, this year we are purchasing a considerable amount of computer equipment and software. By and large, in terms of our research function, we will be doing that in house on our own computers.

The $900,000 that is budgeted for fiscal year '87 is not so much for research operations as it is primarily for the development of computer programs, the software part of the computer operations, that will be used throughout the country by probation officers for putting in actual guideline information.

We would anticipate that there would be some kind of a form that would be filled out by probation officers about the guideline sentence for the judges; and we will have developed that software for that input from throughout the country.

That is what that money is for, so it is ready to go into place when the guidelines are ready.

HIRING OF STAFF

Mr. **DWYER**. You are still in the process of hiring staff, though, Judge?

Judge **WILKINS**. Yes. I think, starting Monday, we will have 25 aboard and I anticipate hiring another 15 as we move through the next few months.

Mr. **DWYER**. You mentioned that you are hiring staff at slightly lower amounts of money that you had anticipated. How do you accomplish that?

Judge **WILKINS**. Well, just like anything else in the marketplace, this occurred on a few occasions. As we began to project in the abstract how much we would pay this particular researcher, we had budgeted $55,000, for example, and we were able to hire one for $45,000. That has not amounted to a great savings, but some.

But the real savings has come as we have simply deleted some positions and reduced in grade several positions.

Mr. **DWYER**. Well, thank you very much. We wish you well. You have a heck of a task in front of you and, needless to say, a very important one. We hope it all works out well.

Judge **WILKINS**. Thank you, Mr. Chairman.

Mr. **DWYER**. We have a few more questions which we shall submit and you can answer for the record.

Judge **WILKINS**. Yes, sir.

[The questions and the answers thereto follow:]

QUESTIONS FOR U. S. SENTENCING COMMISSION
TESTIMONY OF JUDGE WILKINS
FEBRUARY 26, 1986

Do you have general agreement among your Commissioners as to how you will accomplish the task of developing sentencing guidelines? What progress have you made to date?

We have established eight committees each of which deals with a different substantive, procedural, or organizational issue. Each committee is composed of two Commissioners, although any Commissioner can participate fully in any committee. The committees are fact finding bodies for the Commission. The Commission as a whole decides all policy issues.

At present, we are focusing on two substantive areas--offense characteristics and offender characteristics. The offense characteristics committee is in the process of preliminarily identifying characteristics of offenses that are relevant to sentencing. The Commission will begin reviewing that work shortly. The offender characteristics committee is similarly identifying offender characteristics.

I understand that you will be collecting a lot of data to assist the Commission in establishing sentencing guidelines. Where will you get this information?

The primary source of information on sentencing practices that we will use is the Administrative Office of the Court's Statistical Analysis and Reports Division. That office has done an excellent job of anticipating the needs of the Commission. In addition to the information that is already available, the Division of Probation of the Administrative Office will be collecting more detailed information for us this year. We will also use information from the Bureau of Justice Statistics, the Judicial Center, the Bureau of Prisons, and the Parole Commission as well as data from academic settings.

I understand that an initial appropriation of $[illegible] was appropriated for fiscal year [illegible] and an additional $[illegible] was appropriated for fiscal year [illegible].

which was reduced by $47,000 as a result of sequestration. Both amounts will "remain available until expended". How much of this money has been obligated to date?

We have currently obligated $1,867,500 of the funds appropriated for fiscal years 1985 and 1986. We expect to obligate an additional $1,431,500 this year as we complete the hiring of the research staff and begin our research program. The total amount we expect to obligate of the $3,403,000 funds is $3,299,000. Approximately $104,000 would remain at the end of the fiscal year. These are our best estimates at this point, but because we are a new agency, we have little experience to draw upon.

I see that your budget justifications include $398,000 for SLUC? Where is the Commission located: Do you foresee needing additional space in the future?

The Commission is located at Suite 1400, 1331 Pennsylvania Ave. N.W., Washington, D.C. 20004. While we believe that we have sufficient space for the first phase of our work, it is possible that a labor intensive research project might require additional space on a short term basis.

I understand that your initial sentencing guidelines are to be submitted to Congress on or before April 1987.

What is your relationship with the Parole Commission and/or the Bureau of Prisons? Are these examples of outside resources you are utilizing in the attempt to formulate your new guidelines?

You also state your pending deadline requires you to emphasize the hiring of experienced people. Have you hired or do you plan on hiring anyone from the Parole Commission, which, as you know will be sunsetted once you are completely established?

The Chairman of the Parole Commission is an ex officio member of the Sentencing Commission which provides a vehicle for communication between the two Commissions. We will have extensive contact with the staff of the Bureau of Prisons in conducting a joint research study outlined in the Comprehensive

Crime Control Act on maximum utilization of resources. The Commission is touring several Federal prisons on March 11.

We are currently in the process of hiring our research staff. We are interviewing many candidates, including staff from the Parole Commission.

You are also estimating needing $450,000 for travel, including witness travel. Is it the statutory responsibility of the Sentencing Commission to pay for witness travel? Please explain?

As we develop the guidelines, it will be necessary for us to solicit the views of various criminal justice groups in the Federal system, including judges, prosecutors, defense attorneys, probation officers and law enforcement officials. We plan to have advisory groups for each component of the criminal justice system which we will bring together to work with the Commission on various aspects of the guidelines. We believe that the costs of their travel should be born by us, not by their agencies. In addition, we will occasionally call upon experts in a particular area to serve as consultants and we will pay their travel expenses. We also intend to hold hearings in a number of locales ourselves. We have no plans to pay for witness travel.

THURSDAY, FEBRUARY 27, 1986.

SUPREME COURT OF THE UNITED STATES

WITNESSES

SANDRA DAY O'CONNOR, JUSTICE
LEWIS F. POWELL, JR., JUSTICE
ALFRED WONG, MARSHAL
BETSY SAXON, PERSONNEL OFFICER
TONY DONNELLY, BUDGET OFFICER

Mr. SMITH. This morning, we consider the budget request for the Supreme Court of the United States. The amended request for fiscal year 1987 totals $17,086,000 and that is an increase of $464,000 above the amount enacted for 1986 adjusted for sequestration under Public Law 99-177.

We will insert at this point in the record the justification materials submitted in support of this request.

[The justification materials follow:]

SUPREME COURT OF THE UNITED STATES

SUMMARY STATEMENT RELATING APPROPRIATION ESTIMATES TO CURRENT APPROPRIATION

Appropriated, 1986	$[illegible]
Sequestered pursuant to P.L. 99-177	-[illegible]
Proposed supplemental	+[illegible]
Budget Authority, 1986	[illegible]

Requirements

	1986 Budget Authority	1987 Estimate	Increase or Decrease
Salaries and expenses	[illegible]	[illegible]	[illegible]
Care of the building and grounds	[illegible]	[illegible]	[illegible]
Totals	[illegible]	[illegible]	[illegible]
Net increase, fiscal year 1987			[illegible]
Estimate, 1987			[illegible]

STATEMENT SHOWING CASES FILED EACH TERM: CASES TERMINATED AND CARRIED OVER TO NEXT TERM

(October Term 1983 - Corresponds with Fiscal Year 1984)

Term	Case Filings During Term	Carried Over From Prior Term	Total Cases on Docket	Breakdown of Cases on Docket (Orig. & Paid)	(In Forma Pauperis)	Total Cases Disposed of	Total Cases Not Disposed of
1960	1957	356	2313	1058	1255	1928	385
1965	2802	482	3284	1453	1831	2693	591
1970	3419	793	4212	1923	2289	3422	790
1975	3940	821	4761	2366	2395	3806	955
1980	4174	970	5144	2773	2371	4255	889
1981	4422	889	5311	2957	2354	4433	878
1982	4201	878	5079	2727	2352	4009	1070
1983	4222	878	5100	2706	2394	4131	969
1984	4047	959	5006	2590	2416	4261	745
1985*	2476	745	3221	1641	1580	2045	1176
1985**	4300	850	5150	2550	2600	4300	850

STATEMENT SHOWING CASES ARGUED, DISPOSED OF BY OPINION AND CASES REVIEWED AND DECIDED WITHOUT ARGUMENT DURING TERM OF COURT

Term	Cases Granted: Argued This Term	Cases Granted: Disposed of by Opinion	Cases Reviewed and Decided without Argument During Term	Cases Granted Review During Term
1960	148	[illegible]	N/A	117
1965	[illegible]	[illegible]	[illegible]	156
1970	151	148	[illegible]	161
1975	[illegible]	[illegible]	[illegible]	172
1980	[illegible]	[illegible]	[illegible]	163
1981	184	[illegible]	[illegible]	231
1982	[illegible]	[illegible]	[illegible]	179
1983	184	[illegible]	[illegible]	149
1984	[illegible]	[illegible]	[illegible]	[illegible]
1985*	84	[illegible]	[illegible]	[illegible]
1985**	[illegible]	[illegible]	[illegible]	[illegible]

*[illegible]

**[illegible]

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES
SALARIES AND EXPENSES

Summary of Requirements

Appropriation 1986 (enacted to date)	$15,000,000
Sequestered pursuant to P.L. 99-177	-601,000
Budget Authority, 1986	$14,399,000
1987 budget estimate	14,631,000
Proposed increase	$ 232,000

APPROPRIATION LANGUAGE

Supreme Court of the United States

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles: not to exceed $10,000 for official reception and representation expenses: and for miscellaneous expenses, to be expended as the Chief Justice may approve [$15,000,000]. $14,631,000

SUPREME COURT OF THE UNITED STATES
SALARIES AND EXPENSES
FISCAL YEAR 1987
(Dollar amounts in thousands)

Page	Summary of changes:	1987 Request Perm. Pos.	1987 Request Amount
	Appropriation 1986 (enacted to date)	318	$15,000
	Sequestered purusant to P.L. 99-177	...	-601
	Budget Authority, 1986	318	$14,399
	Adjustments to base and built-in changes:		
1.7	1. Other increases in contract rates and charges for services, supplies and equipment.	...	+ 132
1.7	2. Cost of within-grade salary advancements	...	+ 109
	3. Printers for Atex System	...	- 25
	4. Integrated Library System	...	- 100
	5. Work Stations for Research Librarians	...	- 11
	Subtotal, adjustments to base and built-in changes	...	+ 105
	Program changes:		
1.7	6. Phototypesetter - Data Systems Office	+ 1	+ 27
1.8	7. Supreme Court Observance of the Bicentennial of the Constitution of the United States	...	+ 100
	Subtotal, program changes	+ 1	+ 127
	Total net increases, requested	+ 1	+ 232
	Total appropriation requested, 1987	319	$14,631

SUPREME COURT OF THE UNITED STATES
SALARIES AND EXPENSES

Obligations by Activity
(Dollar amounts in thousands)

Authorization: Permanent Comparison by activities:	1986 Appropriation Perm. Pos.	1986 Appropriation Amount	1986 Adjusted (Base for 1987) Perm. Pos.	1986 Adjusted (Base for 1987) Amount	1987 Request Perm. Pos.	1987 Request Amount	Increase 1987 over 1986 as Adjusted Perm. Pos.	Increase 1987 over 1986 as Adjusted Amount
Salaries and expenses	318	$15,000	318	$14,504	319	$14,631	+ 1	$+ 127
Sequestered pursuant to P.L. 99-177	...	-601	...	...	...	...	...	...
Total obligations	318	$14,399	318	$14,504	319	$14,631	+ 1	$+ 127

Object Classification
(In thousands of dollars)

	1986 Estimate	1987 Estimate	Difference (+) or (-)
11 Personnel compensation	$10,136	$10,259	$+ 123
12 Personnel benefits	1,324	1,335	+ 11
13 Benefits for former personnel	30	30	...
21 Travel and transportation of persons	88	88	...
22 Transportation of things	10	11	+ 1
23 Communications, utilities, and miscellaneous charges	747	777	+ 30
24 Printing and reproduction	924	961	+ 37
25 Other services	507	629	+ 122
26 Supplies and materials	428	445	+ 17
31 Equipment	806	697	- 109
Subtotal	$15,000	$15,232	$+ 232
Sequestered pursuant to P.L. 99-177	-601	...	...
Voluntary Reduction	...	-601	...
Total Obligations	$14,399	$14,631	$+ 232

Relation of Obligations to Outlays
(In thousands of dollars)

	1986 Total	1986 Sequestered	1986 Estimate	1987 Estimate	Difference (+) or (-)
Obligations incurred, net	$15,000	$ - 601	$14,399	$14,631	$ + 232
Obligated balance, start of year.......	3,442	...	3,442	3,848	+ 406
Obligated balance, end of year	- 4,000	152	- 3,848	- 4,000	- 152
Outlays	$14,442	$ - 449	$13,993	$14,479	$ + 486

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions	318	319	+ 1
Total compensable work years:			
Full-time equivalent employment	331	332	+ 1
Full-time equivalent of overtime and holiday hours	...	...	...

Mr. **Smith**. We welcome the Honorable Lewis F. Powell and Honorable Sandra Day O'Connor, Associate Justices of the United States Supreme Court. You may proceed with your statement, Justice O'Connor.

General Statement

Justice **O'Connor**. Thank you very much.

Justice Powell and I appreciate, Mr. Chairman, the opportunity to appear here to address the budget requirements of the Court for the fiscal year of 1987 and we have with us some members of the Court staff including our Marshal of the Court, Mr. Wong; Betsy Saxon, our Personnel Officer; and Tony Donnelly our Budget Officer.

As usual, the budget of the Court is divided between the salaries and expenses of the Court on the one hand and the care of building and grounds on the other.

The total budget for 1987 proposed for care of buildings and grounds is $2,455,000. Mr. George White who is the Architect of the Capitol is here to address that aspect of the budgets and my remarks will be addressed specifically to the salaries and expenses portion of the budget.

I would like to note that we have filed an amended budget request in connection with the salaries and expenses portion. The amended request for 1987 is reduced by $601,000 which is the amount sequestered pursuant to Public Law 99-177 for fiscal year 1986.

We printed the amended budget justification and it has been given to the subcommittee staff.

In order to accommodate that reduction in accordance with the present fiscal climate, the Court has concentrated on improved planning and, basically, with the help of funds generated by the vacancy rate and by simply deferring expenditures of things that the Court otherwise might have made wherever that is possible. The Court thinks that it is able to accomplish the objectives within the reduced 1986 budget and we hope that that approach can be carried forward into fiscal year 1987 with the same results. In that regard, then, the amended request for salaries and expenses is reduced to $14,631,000.

I should point out that, at that reduced level, we will have no margin for any unexpected increases in our needs. Further reductions would cause hardship and possibly curtailment of some necessary operations of the Court.

As you know, the Supreme Court has established a good record for returning to the Treasury at the end of [illegible] funds which are not absolutely necessary. In that regard, [illegible] that the staff summarize what has happened over the [illegible] years. The Court has returned a total of approximately [illegible] to the Treasury over that interval of time.

In view of the Court's [illegible] present concern for reducing the [illegible] should strive to make all [illegible] budget process. We have [illegible]

With that in mind, the revised estimate of $14,631,000 for Salaries and Expenses is an increase of $232,000 over the budget authority for fiscal year 1986 as adjusted to reflect the sequestration. We have reduced the base by $136,000 which represents three nonrecurring projects which were previously funded by the Congress. If we exclude the cost of in-grade salary advancements and inflation, the actual increase in the budget authority for the Court operations proposed in 1987 is $127,000 more than in 1986.

That sum includes two program changes. An additional $27,000 is requested to fund the cost of a new phototypesetter position in the Data Systems Office. That phototypesetter would assist the current staff in the normal typesetting duties related to opinion work and general printing. A non-recurring sum of $100,000 is also requested for the observance of the Bicentennial of the Constitution of the United States. The amount proposed will fund educational activities which will focus on the special relationship between the Supreme Court and the Constitution. Specifically, we wish to set up equipment to have continuous showing of five films which were originally produced for the Bicentennial of the Revolution in 1976. The films actually have more relevance to the upcoming Bicentennial of the Constitution, but the narratives need to be updated to reflect that, and the need is for new projection equipment to run the films during all the hours that visitors come to the Court. Each year the Court receives an average of some 600,000 visitors, and we do hope that we can enhance each visitor's appreciation of the Supreme Court's role in relation to the Constitution by showing the films and other educational exhibits. The details and justifications are set forth in the budget submission.

That concludes our brief summary, and Justice Powell and the officers of the Court and I are happy to answer any specific questions.

SALARIES AND EXPENSES

Mr. SMITH. Do you have anything to add, Justice Powell?

Justice POWELL. No, not at this time, Mr. Chairman.

Mr. SMITH. Welcome back, Justice Powell. I know you have been [illegible] 98 percent [illegible]

[illegible] EXPENDITURES

[illegible] to absorb the sequestration. How [illegible] expenditures?

[illegible] things as [illegible]

[illegible]

cies on a continuing basis, not because we are not trying to fill them. We do. But with a staff such as in the police force, and so forth, we have had a number of retirements and positions that have created vacancies which take time to fill. The Court has in that way been able to defer some of its expenditures.

FURTHER SEQUESTRATION OF FUNDS

Mr. SMITH. You indicated you don't really have any margin to work with after that sequestration?

Justice O'CONNOR. That is correct.

Mr. SMITH. What happens if we have another sequestration in 1987?

Justice O'CONNOR. Mr. Chairman, there is not a margin there to allow for it, and we would express concern about that because there just does not seem to be a margin for that.

Mr. SMITH. How can you curtail your operations if it comes about? What are the other possibilities? You just can't cut off applications for certiorari, can you?

Justice O'CONNOR. No, we can't. I suppose the only thing that could be done would be not hiring people we need and who are required.

CASELOAD

Justice POWELL. We have very little control over our workload. I think you gentlemen are familiar with the Court's reviewing process.

Mr. SMITH. Do you look at that as reducing your workload or handling better the anticipated workload?

Justice POWELL. I don't have the precise number, but I think the number of cases we take each term to resolve conflicts between circuits is about 40 to 50 cases. If those cases could be decided by a special court composed of circuit court judges, presumably that would reduce to some extent the cases we would take.

Mr. SMITH. Would it reduce the cases that you would take or would you just simply be able to handle that many more?

Justice POWELL. We are expecting in this term about 4300 petitions for certiorari. The assumption is—and I think a good deal of study has been made of this by several study committees—is that we would not replace those. Gradually perhaps we would, but I would hope not.

Mr. SMITH. Mr. Dwyer.

Mr. DWYER. I have no questions. I would like to join in welcoming Justice O'Connor and Justice Powell.

Justice POWELL. Thank you very much. I missed seeing you last year.

Mr. DWYER. It is good to see you back.

BICENTENNIAL OF THE CONSTITUTION

Mr. SMITH. With regard to this observance of the Bicentennial of the Constitution, we had a request for $1.5 million for Bicentennial activities yesterday for the whole judiciary. Is there some overlap there or is your request for something different?

Justice O'CONNOR. I have discussed this with the Chief Justice, and he advises me this is not in any way overlapping. Our problem is that the Court, as you might imagine, receives a tremendous number of visitors annually. These visits are greatly enhanced by any displays the Court is able to put up of an educational nature down on the ground floor where they come in and any showing of any films. The Court will have, I think, an increased number of visitors next year. As a matter of fact, we project 700,000 visitors based on current figures in this fiscal year. I don't know how many more would be expected that year.

At the time of the celebration in 1976 of the nation's Bicentennial of the Revolution, the Court had 781,000 visitors, so it was a tremendous jump. I think we have to anticipate that will occur because there will be a major effort nationwide.

Mr. SMITH. Are those school groups?

Justice O'CONNOR. Many are school groups. Many are groups of all kinds who come to the Court and want a tour. We have some films that were developed a number of years ago, but they just need updating.

Mr. SMITH. Are there any actors in the government who could update those?

Justice O'CONNOR. I don't know. I think it is not primarily to update the actors but primarily to update the narratives.

EDUCATIONAL FILMS

Justice POWELL. There were five films developed for the 200th Anniversary of the Declaration of Independence and they were very popular. I am sitting here trying to remember what they were. I know there was one on the Marberry-Madison case, and another on the Burr trial.

Mr. SMITH. You had five different films?

Justice O'CONNOR. Yes, and we tried to keep them going in the public display.

Mr. SMITH. How long does it take?

Ms. SAXON. An hour a piece.

Mr. SMITH. Do you have room enough so the group could stay for the whole two and a half hours?

Justice O'CONNOR. There would be pressures for seats. It depends, but people don't stay that long.

Mr. SMITH. You are not talking about updating all five films, are you?

Justice O'CONNOR. Yes, because we want to show all of them each day. We also need to update the display exhibits.

Mr. SMITH. You have the facilities?

Justice O'CONNOR. Yes, but we lack the projection equipment, and it is expensive to upgrade the films.

This not a duplication of monies requested for the Judiciary as a whole.

Mr. SMITH. We do have difficulties this year. We have always been able to work these out with the Court. I am sure we will again. We have a delicate situation where the legislative and the judicial branches have always been able to work things out. You have been very cooperative and, as a general rule, we have not had requests for exhorbitant amounts and, during the process, we work it out.

Justice O'CONNOR. Mr. Chairman, we think the subcommittee has been very helpful to the Court, and we appreciate it very much. It was in that spirit that we wanted to recognize the reductions that have been made.

Mr. SMITH. If there are no other questions, thank you very much.

Justice POWELL. I certainly endorse what Justice O'Connor said. We feel very grateful to this committee and look forward to coming over here.

Mr. SMITH. Good. We will have you more often. Any time you have an opportunity to come up with a reduction, come on over.

Justice O'CONNOR. Thank you very much, Mr. Chairman, and Congressman Dwyer.

Mr. SMITH. We have some additional questions from Congressman O'Brien which we shall ask you to answer for the record.

[The questions and answers thereto, follow:]

Questions Submitted by Mr. O'Brien

Question. On page 1.5 of your FY 1987 budget justification under the heading "other services", you are requesting $629,000, an increase of $122,000 over the FY 1986 appropriated level. Please explain what is included in other services and discuss the various components of the requested increase.

Answer. "Other services" include charges for services not otherwise classified, such as data systems equipment maintenance, the library's database subscription services, registration fees for training, official reception expenses, engrossing certificates of admission to the Supreme Court Bar, and typewriter repair. The requested increase of $122,000 consists of $100,000 for expenses related to the Supreme Court observance of the Bicentennial of the U.S. Constitution, $20,000 for a four percent inflation increase, and $2,000 for expenses related to the new phototypesetter position. The cost of these services is more than offset by the fees collected by the Supreme Court for admissions to the Bar and for the filing of cases. During FY 1985 the Court collected and deposited into the U.S. Treasury $925,233.00 in fees.

Question. In FY 1987, your request for equipment is $109,000 less than the level provided in FY 1986. What accounts for this reduction?

Answer. The reduction of $109,000 in equipment costs is the net effect of a base reduction of $136,000 for three nonrecurring projects funded in fiscal year 1986, and an increase of $27,000 which provides a four percent inflation increase. The three nonrecurring projects were $100,000 for the integrated library system, $25,000 for printers for the Atex system, and $11,000 for work stations for Research Librarians.

Question. What impact did the Gramm-Rudman-Hollings sequestration of $601,000 of FY 1986 funds have on personnel? Will it necessitate reductions-in-force or furloughs?

Answer. The sequestration of $601,000 of FY 1986 funds has not yet had any direct effect on personnel, nor do we think at this time that it will necessitate reductions-in-force or furloughs. The Supreme Court hopes to be able to absorb this reduction by concentration on improved planning, to defer or delay some expenditures and by use of funds generated by vacancies in staff positions.

Question. You are requesting in FY 1987 $100,000 for the Supreme Court Observance of the Bicentennial of the Constitution. Will any of these funds be used to hire personnel?

Answer. The $100,000 requested to fund the Supreme Court Observance of the Bicentennial of the Constitution will be used to fund educational activities including historical exhibits in the Court museum and will not be used to hire personnel. Our film about the Court will be updated and re-run. New projection equipment will be obtained to show the five films produced for the 1976 Bicentennial. During 1987, approximately 800,000 to 1,000,000 visitors are expected.

Question. Has there been a dramatic increase in the number of cases filed and the overall caseload of the Court?

Answer. The Supreme Court is anticipating an increase of some 200 in the number of cases filed during the 1985 term over 1984. As of this time filings are up by 283 cases. The average number of cases on our docket from 1975 through 1984 was 4,900. From 1980 through 1984 however, the average number of cases on the docket was 5,100. As recently as 1960 there were only 2,313 cases on the docket. Thus, over the long term there has been a dramatic increase in the Supreme Court caseload. The increase, however, has been gradual.

THURSDAY, FEBRUARY 27, 1986.

ARCHITECT OF THE CAPITOL

WITNESSES

GEORGE M. WHITE, ARCHITECT OF THE CAPITOL

WILLIAM L. ENSIGN, ASSISTANT ARCHITECT

WILLIAM F. RAINES, JR., ADMINISTRATIVE ASSISTANT

J. RAYMOND CARROLL, DIRECTOR OF ENGINEERING

EMANUELE CRUPI, BUDGET OFFICER

ELLIOTT CARROLL, EXECUTIVE ASSISTANT TO THE ARCHITECT OF THE CAPITOL

Mr. SMITH. Next, we hear from the Architect of the Capitol concerning the 1987 budget request for the Care of Building and Grounds appropriation for the Supreme Court.

The request is for $2,455,000 and that is an increase of $278,000 from the amount appropriated for FY 1986 adjusted for sequestration.

In addition today, we have a supplemental request for $46,000 for the care of the Buildings and Grounds appropriation and a supplemental request of $2 million for the study of the construction of an office building.

We shall insert the justification material in support of the budget request at this point.

[The justification material follows:]

General Statement

This appropriation is for the salaries of the Chief Justice, eight Associate Justices, the Administrative Assistant to the Chief Justice, the four Officers of the Court and the employees of the Supreme Court of the United States, and for the necessary operating expenses of the Court. This includes printing and binding of the Supreme Court reports, books for the Supreme Court and miscellaneous expenses for fiscal year 1987. Reference to basic statutory authorities is contained in the Digest of Appropriations. The Judiciary, on file with Appropriations Committees of Congress and the Office of Management and Budget.

An appropriation of $14,631,000 is requested for 1987, which represents an increase of $232,000 over the appropriation for 1986. Excluding mandatory items, the increase in budget authority, 1987 over 1986 is $127,000.

Justification of Changes

Item 1. Other Increases in Contract Rates and Charges for Services, Supplies and Equipment ($132,000)

It is estimated that an additional $132,000 will be required in fiscal year 1987 to cover increased charges for the following categories of services, supplies and equipment. The categories include: 1) Transportation of Things, 2) Rent, Communications and Utilities, 3) Printing and Reproduction, 4) Other services, 5) Supplies and Materials, and 6) Equipment, including Library Books and Microforms. This projection is based on recent, plus anticipated, increases in expenditures at an estimated inflation rate of 4 percent, for an additional $132,000. The projection does not include requirements for travel or for new personnel.

Item 2. Cost of Within-Grade Salary Advancements ($109,000)

Supreme Court employees who receive an "above-average level of competence" performance rating, are entitled to periodic step increases in compensation corresponding with those provided by Chapter 53 of Title 5, United States Code. It is estimated that those salary advancements will cost $109,000 during fiscal year 1987 ($101,000 for personnel compensation and $8,000 for related benefits). The estimate is based on past experience and takes into account savings due to turnover of personnel and the filling of vacancies at lower rates of pay.

Item 6. Phototypesetter -- Data Systems Office (1 position, $27,000)

The Atex computer system, which is dedicated to processing the Supreme Court opinions, has experienced growth far exceeding original projections made in 1979. Aside from physical expansion of terminals, printers and magnetic disk storage capacity, such growth also results in the necessity to provide more direct assistance to the system's users. Support of the users is a responsibility shared by all phototypesetters in addition to their normal typesetting duties related to opinion work and general printing. The phototypesetters operate the computer equipment, perform adjustments and troubleshoot system problems. They also perform the majority of the in-house printing of forms for the Court, which is more efficient and cost effective than producing them on typewriters or contracting with outside printers.

Currently, four phototypesetters perform these tasks over a 109 hour work week including 12 hours on Saturday and Sunday. An additional phototypesetter will provide a minimum backup to current staff, increasing the capability to support system users, and meet the increasing demands for printing services. Also the continued productivity in printing and publishing of the Court's opinions will be assured.

Item 7. Supreme Court Observance of the Bicentennial of the Constitution of the United States ($100,000)

The sum of $100,000 is requested to fund the Supreme Court's activities in observing the Bicentennial of the Constitution of the United States. These activities will be educational in nature, and will include films, exhibits and special projects designed to enhance the general understanding of the special relationship between the Supreme Court and the Constitution.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES
CARE OF THE BUILDING AND GROUNDS

Summary of Requirements

Appropriation 1986 (enacted to date)	$ 2,275,000
Sequestered pursuant to P.L. 99-177	-98,000
Proposed program supplemental	46,000
Budget Authority, 1986	2,223,000
1987 budget estimate	2,455,000
Proposed Increase	232,000

Appropriation Language

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended); and for snow removal by hire of men and equipment or under contract; and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), [$2,275,000], $2,455,000, of which [[illegible]] $425,000 shall remain available until expended. 1.9

SUPREME COURT OF THE UNITED STATES
CARE OF THE BUILDING AND GROUNDS
FISCAL YEAR 1987
(dollar amounts in thousands)

	1987 Request	
Summary of changes:	Perm. Pos.	Amount
Appropriation, 1986 (enacted to date)	33	$2,275
Deletion of [illegible] pursuant to P.L. 99-177	...	-58
Proposed supplemental, purchase of electrical energy	...	46
Budget Authority, 1986	33	$2,263
[illegible] Adjustments to base and built-in changes:		
[illegible] amount sequestered in appropriation base resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 [illegible]		
[illegible]		+ 58
[illegible]		+ [illegible]
[illegible] electrical energy [illegible]		[illegible]
[illegible]		+ [illegible]
[illegible]		[illegible]

[illegible]

SUPREME COURT OF THE UNITED STATES
SALARIES AND EXPENSES

Obligations by Activity
(in thousands of dollars)

Authorization: Permanent Comparison by activities:	1986* Appropriation Perm. Pos.	1986* Appropriation Amount	1986 Adjusted (Base for 1987) Perm. Pos.	1986 Adjusted (Base for 1987) Amount	1987 Request Perm. Pos.	1987 Request Amount	Increase 1987 over 1986 as Adjusted Perm. Pos.	Increase 1987 over 1986 as Adjusted Amount
Structural and mechanical care of building and grounds, including supplying of mechanical furnishings and equipment	33	$1,555	33	$2,073	33	$2,455	---	$+ 382
Sequestered pursuant to P.L. 99-177		-38		-----		-----		-----
Total obligations	33	1,517	33	2,073	33	2,455	---	+ 382
Unobligated balance, start of year		-794		---		---		---
Unobligated balance, end of year								
Budget Authority	33	$1,555	33	$2,073	33	$2,455		$+ 382

Object Classification
(in thousands of dollars)

	1986* Estimate	1987 Estimate	Difference (+/-)
Personnel compensation	[illegible]	[illegible]	[illegible]
Personnel benefits	[illegible]	[illegible]	[illegible]
23 Communications, utilities, and miscellaneous charges	[illegible]	[illegible]	[illegible]
25 Other services	[illegible]	[illegible]	[illegible]
26 Supplies and materials	[illegible]	[illegible]	[illegible]
Equipment	[illegible]	[illegible]	[illegible]
Subtotal	[illegible]	[illegible]	[illegible]
Sequestered pursuant to P.L. 99-177	-38		[illegible]
Total obligations	$1,517	$2,455	[illegible]

*[illegible]

**[illegible]

***[illegible]

Relation of Obligations to Outlays
(In thousands of dollars)

	1986			1987	Difference (+)
	Total	Sequestered	Estimate	Estimate	or (-)
Obligations incurred, net............	$3,115	$-98	$3,017	$2,455	$- 562
Obligated balance, start of year ...	404	...	404	196	- 208
Obligated balance, end of year......	- 200	4	-196	...	+ 196
Outlays..........................	$3,319	$-94	$3,225	$2,651	$- 574

Personnel Summary

	1986 Estimate	1987 Estimate	Difference (+) or (-)
Total number of full-time permanent positions	11	11	...
Total compensable workyears:			
Full-time equivalent employment	14	14	
Full-time equivalent of overtime and holiday hours	4	4	

General Statement

This appropriation, for expenditure by the Architect of the Capitol, provides for the structural and mechanical care of the United States Supreme Court Building and Grounds, including maintenance and operation of mechanical equipment. The Architect performs his duties under authority of the Act of May 7, 1934 (48 Stat. 668).

The mechanical equipment includes such items as air conditioning, refrigeration and ventilating systems with more than 1,000 pieces of equipment; electrical transformer stations; 700 plumbing fixtures and related piping; 8 elevators and 5 dumbwaiters; electric fixtures and wiring.

A force of [illegible] employees is required for the fiscal year 1987 to cover 3 shifts daily and is made up of 1 Supervising Engineer; 1 Clerk; 1 Maintenance General Foreman; 1 Maintenance Mechanic; 2 Maintenance Mechanic Workers and 1 Maintenance Mechanic Helper; 1 Air Conditioning Equipment Mechanic Foreman and 7 Mechanics in the air conditioning division; 1 Electrician Foreman, 3 Electricians, and 1 Electrical Power Mechanic; 1 Pipefitter Foreman and 4 Pipefitters in the pipefitting - plumbing division; 1 Marble Mason; 1 Decorative Painter; 1 Gardener Foreman and 2 Gardeners; 1 Toilet and Bath Attendant and 1 Laborer.

Justification of Changes

Item 1. Restoration of Amount Sequestered of Appropriation Base Resulting from the Balanced Budget and Emergency Deficit and Control Act of 1985 ($59,000)

In accordance with the sequestration procedures authorized in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), a reduction of 4.3 percent, or $98,000, in non-exempt budget authority (including the Judiciary) was imposed in fiscal year 1986. The sum of $59,000 has been included in this request to restore the sequestered amount to the appropriation base for the annual recurring accounts. The balance, $29,000, will not need to be restored since this amount is included in two non-recurring projects which are included as reductions to the base budget.

Item 2. Within-grade Step Increases ($4,000)

This increase is authorized under the Prevailing Rate System for Wage Board and "GS" employees compensated under such systems and covers within-grade step increases resulting in and required to be paid to such employees in fiscal year 1987.

Item 3. Health Benefits ($3,000)

This increase provides funding for payment to employees' Health Benefits Fund ($3,000).

Item 4. Increase in Purchase of Electrical Energy ($19,000)

For fiscal year 1986, based on current projections which include the proposed fiscal year 1986 program supplemental of $46,000, the total estimated expenditure will be $296,000.

For fiscal year 1987, it is estimated that a total of $315,000, an increase of $19,000 over fiscal year 1986, will be required. This amount is required to meet increased consumption of electrical energy. The Potomac Electric Power Company provides energy to the Supreme Court Building at rates approved by the Public Service Commission.

Item 5. Increase in General Annual Repairs ($1,000)

This item provides funding for miscellaneous repair work not covered by a specific category. The increase of $1,000 is required due to the rising cost of performing repairs due to inflation and for elevator maintenance.

Item 6. Increase in Maintenance [illegible] ($1,000)

For fiscal year 1983 an increase of [illegible] required to cover the additional [illegible] the [illegible] Supreme Court Building [illegible]

to waste disposal.

Item 9. Supplies and Materials ($1,000)

For 1983, an increase of $1,000 is requested to meet rising costs and expanded needs for the care of the Supreme Court Building. Of this increase, $[illegible] is required for electric light bulbs and [illegible], $[illegible] for horticultural supplies, $[illegible] for [illegible] supplies, [illegible] and [illegible] materials.

Item [illegible] ($[illegible])

[illegible]

wear and require replacement as a preventive measure. The replacements will include roller bearing blocks, bearing supports, drive shafts and drive sheaves. The sum of $15,000 is requested to procure the materials required for this project. Installation will be performed by in-house personnel.

Item 16. Replacement/Purchase of Equipment ($17,000)

The sum of $17,000 is requested to replace or purchase various nonrecurring equipment items. There is a need to improve the maintenance ability for personnel assigned to the Supreme Court with the replacement and addition of the following equipment:

a) Laundry Washing Machine ($8,500). The laundry facility for the Supreme Court building is equipped with two washing machines. One has been in service for 15 years and the other for 11 years. This request will provide for the replacement of the older unit which has limits of capability and requires continued replacement of parts which are difficult to obtain. The funding will be utilized entirely for the procurement of the unit. Installation will be performed by maintenance personnel.

b) Medium Power Mixer ($1,500). It has become necessary to replace one of the [illegible] power mixer with a new unit to enable [illegible] [illegible] [illegible] [illegible] and [illegible] to [illegible]. The existing mixer requires replacement of the [illegible] [illegible] and [illegible], all of which are obsolete. The estimated cost of the replacement mixer is $1,500.

c) High Pressure Masonry Cleaning Unit ($3,500). This equipment will be used to clean exterior marble on the Supreme Court building. Use of similar equipment has enabled the cleaning of exterior marble which had become discolored. The unit has also proven useful in removing stains caused by snow melt materials from marble areas which could not be removed by other means. The estimated cost of the cleaning unit is $3,500.

d) Metal Cut-off Saw ($2,500). The sum of $2,500 is requested to replace a metal cut-off saw which is 25 years old. The existing unit is deteriorated, obsolete and requires continued emergency repairs.

e) Engine Driven Sludge Pump ($1,000). The purchase of an engine driven sludge pump is required to assist in the cleaning of sump pits and elevator pits that occasionally become flooded. This unit is also needed to operate in case of power failure to remove water from pits which would otherwise flood basement areas. The estimated cost of the pump is $1,000.

Item 17. Installation of Emergency Power System ($150,000)

The Supreme Court is the only major building on the Capitol Hill complex which lacks standby electrical power in the event of an area wide PEPCO power failure. Presently, a 200 AMP, 120 volt 2 wire service is provided to the Supreme Court building emergency distribution panel from the Library of Congress Jefferson Building. The Supreme Court is without power when the utility company primary service is interrupted. The need for emergency power became obvious when a PEPCO area wide power failure occurred on July 30, 1985, and lasted for several hours. The lack of illumination in interior stairwells, corridors and other spaces to allow personnel to safely exit or move through the building presented a major problem.

Adequate space for emergency power equipment is not available in the Supreme Court building. To provide emergency power for the building, it is proposed to construct a vault in the west lawn area, adjacent to the transformer equipment. Circuits and controls will be extended into the building and connected to the existing emergency power distribution switchboard.

Maintenance of emergency power systems is provided by central power distribution group personnel. The estimated cost of $350,000 includes funding for materials and temporary labor and is being requested on a "No Year" basis.

GENERAL STATEMENT

Mr. SMITH. Please proceed with your statement.

Mr. WHITE. Thank you very much.

I have with me today the Assistant Architect of the Capitol, Bill Ensign; my Administrative Assistant, Bill Raines; our Director of Engineering, Ray Carroll; and Emanuele Crupi, my Budget Officer; Elliott Carroll, my Executive Assistant, and Don Parry who is the supervising engineer for the Supreme Court Building.

I am pleased to appear before the committee, Mr. Chairman, to present the fiscal year 1987 appropriation request. I will make a brief summary and then will be available for questions.

OPENING STATEMENT

As you know the Architect of the Capitol by authority of the Act of May 7, 1934 is responsible for the structural and mechanical care of the United States Supreme Court building and grounds. We are not charged with responsibility for custodial care which is under the jurisdiction of the Marshal of the Court and is provided for, as you know, under another appropriation.

As you stated in your opening statement, we have requested a total appropriation of $2,455,000. This represents a net increase of $232,000 over the total of $2,223,000 for 1986 which has been reduced by a sequestration of $98,000 pursuant to Public Law 99-177 and includes a pending program supplemental request in the amount of $46,000 for the purchase of electrical energy.

The net increase of $232,000 is represented by decreases in non-recurring projects totalling $305,000 offset by increases to the base and non-recurring projects totalling $537,000. The increases that are requested are $69,000 for restoration of funds sequestered pursuant to Public Law 99-177, $7,000 for personnel benefits and within-grade salary advancements authorized by law, $24,000 to offset increased costs due to inflation for goods and services procured for annually recurring maintenance, items such as purchase of electrical energy, and so forth; $30,000 for the maintenance of the security system and $25,000 for the disposal of solid waste.

The non-recurring items requested totalling $382,000 include replacement of ventilation fan bearings for $15,000; replacement and purchase of equipment for $17,000; and the installation of an emergency power supply system for $350,000.

Mr. Chairman, that concludes the brief summary and I will be pleased to respond to any questions.

[The prepared statement of Mr. White follows:]

SUPREME COURT, CARE OF THE BUILDING AND GROUNDS

STATEMENT OF GEORGE M. WHITE, ARCHITECT OF THE CAPITOL

Mr. Chairman and Members of the Committee:

I am pleased to appear before the Committee to present the fiscal year 1987 appropriation request for the care and maintenance of the Supreme Court Building and Grounds.

I thought it might be appropriate, if it is agreeable, Mr. Chairman, to present a brief summary of the request and then answer any questions that you may have concerning the detail.

As you know, the Architect of the Capitol, by authority of the Act of May 7, 1934, is responsible for the structural and mechanical care of the United States Supreme Court Building and Grounds. We are not charged with responsibility for custodial care, which is under the jurisdiction of the Marshal of the Supreme Court and is provided for in another appropriation.

In our prepared justifications for 1987, we have requested a total appropriation of $2,455,000. This represents a net increase of $232,000 over the total of $2,223,000 for 1986, which has been reduced by the sequestration of $96,000 pursuant to Public Law 99-177 and includes a pending program supplemental request in the amount of $46,000 for the purchase of electrical energy. The net increase of $232,000 is represented by decreases in non-recurring projects totalling $305,000, offset by increases to the base and non-recurring projects totalling $537,000.

Increases requested are: $69,000 for restoration of funds sequestered pursuant to Public Law 99-177; $7,000 for personnel benefits and within-grade salary advancements authorized by law; $24,000 to offset increased costs due to inflation for goods and services procured for annual recurring maintenance items, that is, purchase of electrical energy, general annual repairs, supplies and materials, air conditioning maintenance, painting and care of the grounds; $30,000 for the maintenance of the security system and $25,000 for the disposal of solid waste.

Nonrecurring items requested total $382,000 and very briefly include: replacement of ventilation fan bearings ($15,000), replacement and purchase of equipment ($17,000) and installation of an emergency power supply system ($350,000).

Mr. Chairman, that concludes the summary and I shall be pleased to respond to questions.

DISPOSAL OF SOLID WASTE

Mr. Smith. What is this I heard you say about disposal of solid waste? Tell us about that.

Mr. White. Up to this time, we have been disposing of solid waste with our own forces, that is to say, with the forces of the Architect of the Capitol, appropriations for which have been made through the legislative branch appropriations.

Mr. Smith. Is that to haul it away?

Mr. White. To haul it away, yes. We have determined that it is less expensive for that particular operation to have the hauling done by an outside contractor. Having done that, it seemed appropriate then to make that charge more meaningful to the Supreme Court which had not been charged the proper costs for a long time.

Mr. Smith. Are we talking about a small difference or substantial difference?

Mr. White. We are talking about all of our hauling for the entire Hill. We expect to save a total of about $80,000 by having an outside contractor do it.

Mr. Smith. Is that the first year?

Mr. White. We hope it will increase, but that is the first year calculation.

BIDDING COMPETITION

Mr. Smith. After you are dependent upon them, will there be competition?

Mr. White. Yes, there will be competition. It is competitively bid.

Mr. Smith. In the event in the second year they try to raise it too much, there will still be competition?

Mr. White. Yes, and we always have the alternative of going back to our own forces. On the other hand, the increase for the Supreme Court is because there had not been an appropriate charge made. It had been merely a charge that had been made as an inhouse calculation. So, this now has to be more meaningful since we are allocating it to the various entities for which the hauling is being done.

SEQUESTRATION RESTORATION

Mr. Smith. This $69,000 that you want to restore from the sequestration in 1987. It sounds like a deferral. Why can't you take it out of your base?

Mr. White. If we had to, we could, but it was our understanding, just as we have done in our legislative appropriation hearings, that we should put the entire amount back in order to start the base for 1987 as though the sequestration had not occurred.

There was only one partial deferral out of the $69,000, Mr. Chairman, and that had to do with $24,000 which we took out of the security funds. That is a deferral. The rest of it was not. We took some of it out of miscellaneous improvements which does not have to be replaced, and we took some of it out of repairs of sidewalks which we felt we could accomplish for less money. We put it back in on the basis that it would have been in the base had that not occurred.

Mr. SMITH. Let's take the repair of sidewalks. Because it was not done in 1986, will it have to be done in 1987?

Mr. WHITE. We only took out $5,000 out of a total of $75,000. We saved $5,000 out of that. We think we can absorb that.

EMERGENCY POWER SUPPLY REQUEST

Mr. SMITH. Tell us some more about this emergency power system.

Mr. WHITE. The Supreme Court is without any emergency power supply at all. It has been without it since the inception of the building, for 50 years.

There is an electric line which we installed for an emergency and which comes from the Library of Congress building, with the thought that if electric power were lost within the Supreme Court building, we would still have a secondary source.

Mr. SMITH. You won't have a power plant there? You will just have a line running from there?

Mr. WHITE. No, I am describing the existing system. At the present time, we have an electric line running from the Library of Congress. Last summer, we had a power failure all over the Hill. The Library of Congress went out also, so the Supreme Court went out as well because the line connecting the two didn't have any power in it, so each building really needs its own internal source, and our proposal is thus for an internal source of emergency power.

Mr. SMITH. Would one emergency power plant serve both or not?

Mr. WHITE. No, it would not.

Mr. SMITH. It is not practical?

Mr. WHITE. It is not practical to do that. The units begin to get fairly large if you combine buildings.

Mr. SMITH. Mr. Dwyer.

SCRAP PAPER WASTE

Mr. DWYER. The solid waste that the Chairman mentioned, is that mostly scrap paper? Is there separation of waste? It would seem to me the vast amount would be paper.

Mr. WHITE. There is a lot of it that is paper and there is a lot of it that comes from cafeterias as well. In other words, that would be waste from the food service.

Mr. DWYER. What is the breakdown? Doesn't the paper bring some return to the haulers?

Mr. WHITE. Yes, and when the haulers bid for the hauling, they take into account some of what it costs them and what can be recovered.

Mr. DWYER. What is the flow of wastepaper generating right now in the form of revenue?

Mr. ELLIOTT CARROLL. There are two kinds of waste. There is the waste from the restaurant.

We use a public bid contract for which the government receives the revenues at $20 a ton or something typical of that nature for recyclable paper.

The restaurant and other waste is the solid waste Mr. White is referring to, and this is a separate contract.

Mr. Dwyer. This is the $25,000 cost for waste from the cafeteria?

Mr. White. That is correct. I was mistaken. I thought it included paper waste.

COGENERATION

Mr. Dwyer. Going back to the Chairman's inquiry before about one plant supplying power, have you ever thought of cogeneration which people are thinking about all over the country?

Mr. White. Yes, we have. Perhaps Ray Carroll, our engineer, can respond in greater detail.

Mr. Dwyer. It seems to me we could fuel a very sizable plant.

Mr. Ray Carroll. We burn fuel for the Capitol.

Mr. Dwyer. I was thinking of the flow of waste.

Mr. Ray Carroll. The flow of waste would be so small it would not make sense to consider it. We did study the so-called refuse derived fuel, the RDF, some few years ago, maybe five years ago in great depth. We participated and observed the burning of that type of waste in two or three other areas—Hagerstown being one. We decided in this particular case that the use of that kind of fuel had not advanced in technology at that time at least to warrant doing it in our plant. However, technology changes, and we have not studied it since.

Mr. Dwyer. The emergency line that exists now between the Library of Congress and the Supreme Court, would you eleborate?

Mr. White. It is an electric power line.

Mr. Dwyer. Just one building tapping into the other one?

Mr. White. Yes. In the event the Supreme Court power was cut off, we could supply some power from the Library of Congress, but if they are both cut off, which occurred last summer, then neither one has power.

Mr. Dwyer. Could you supply power back to the Library of Congress from the Supreme Court, if the power was cut off.

Mr. White. No, we cannot.

Mr. Ray Carroll. We put that system in about seven or eight years ago because we did have a small, short power failure at the Supreme Court. We literally ran an extension cord from the Library of Congress to the Supreme Court. It is a small emergency source in case the Supreme Court alone went out, but the Library is still functioning, but it is not tied into the emergency power at the Library. It is only tied into the normal power at the Library.

Mr. Dwyer. What kind of emergency power do they have in the Library?

Mr. Ray Carroll. We have a separate diesel generator. It is very small. We have one for the Adams Building and one for the Jefferson Building, and the Madison building has its own.

Mr. White. Those emergency power systems are normally connected to only minimal kinds of things. For example, emergency lighting, elevators, that sort of thing.

Mr. Dwyer. You want to get the people out and get them out in a safe way.

Thank you, Mr. Chairman.

SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1986

SUBCOMMITTEE ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

NEAL SMITH, Iowa, *Chairman*

BILL ALEXANDER, Arkansas	GEORGE M. O'BRIEN, Illinois
JOSEPH D. EARLY, Massachusetts	RALPH REGULA, Ohio
BERNARD J. DWYER, New Jersey	HAROLD ROGERS, Kentucky
BOB CARR, Michigan	
EDWARD P. BOLAND, Massachusetts	

JOHN G. OSTHAUS and TERRY D. BEVELS, *Staff Assistants*

WEDNESDAY, FEBRUARY 26, 1986.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

FEES OF JURORS AND COMMISSIONERS

WITNESSES

CHARLES CLARK, CHIEF JUDGE, UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

WILLIAM L. HUNGATE, DISTRICT JUDGE, UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MISSOURI

L. RALPH MECHAM, DIRECTOR, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

EDWARD V. GARABEDIAN, ASSISTANT DIRECTOR

ROBERT PELLICORO, CHIEF, CLERKS DIVISION

Mr. SMITH. The next item that we shall consider is the FY 1986 program supplemental requests for three items under "Courts of Appeals, District Courts, and Other Judicial Services." These requests total $5,000,000 in new budget authority and $12,000,000 in transfers.

We shall insert the justification materials in support of these requests in the record at this point.

[The justification materials follow:]

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

For an additional amount for "Salaries of Supporting Personnel," $1,200,000

Presently available	$474,900,000
Proposed supplemental	1,200,000
Revised estimate	$476,100,000

Program and Financing

	1986 Presently Available	1986 Revised Estimate	1986 Proposed Supplemental
Program by activity:			
Salaries and benefits (obligations)	$489,598,000	$490,798,000	$1,200,000
Financing:			
Unobligated balance available, start of year	-14,698,000	-14,698,000	.....
Budget authority	474,900,000	476,100,000	1,200,000
Relation of obligations to outlays:			
Obligations incurred, net	489,598,000	490,798,000	1,200,000
Obligated balance, start of year	15,450,000	15,450,000	.....
Obligated balance, end of year	-19,169,000	-20,369,000	-1,200,000
Outlays	$485,879,000	$485,879,000	$ .....

Analysis by Object and Class of Personnel
(Dollar amounts in thousands)

		1986 Presently Available		1986 Revised Estimate		1986 Proposed Supplemental	
		Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
11	Personnel compensation:						
	Claims Court	60	$ 1,902	60	$ 1,902	...	$.....
	Magistrates' offices:						
	Magistrates	272	19,519	272	19,519	...	.....
	Staff	545	14,328	545	14,328	...	.....
	Circuit executives' offices	56	2,311	56	2,311	...	.....
	Clerks' offices	6,799	152,171	6,999	153,196	200	1,025
	Probation offices	3,238	93,013	3,238	93,013	...	.....
	Pretrial Services offices	184	4,244	184	4,244	...	.....
	Judges' staff	3,577	100,616	3,577	100,616		
	Court reporters	589	19,315	589	19,315		
	Central legal staffs	229	5,733	229	5,733		
	Librarians	164	3,099	164	3,099	...	.....
	Other personnel	97	2,197	97	2,197	...	.....
	Total personnel compensation	15,810	418,448	16,010	419,473	200	1,025
12	Personnel benefits	...	56,452	...	56,627	...	175
	Total obligations	15,810	474,900	16,010	476,100	200	1,200
	Unobligated balance, start of year	.....	14,698	.....	14,698	.....	.....
	Budget Authority	15,810	$489,598	16,010	$490,798	200	$1,200

Personnel Summary

Total number of full-time permanent positions	15,810	16,010	+200
Total compensable workyears:			
Full-time equivalent employment	15,297	15,347	+50

99th Congress, 2d Session - - - - - - - - - - - - House Document 99-184

REQUEST FOR SUPPLEMENTAL APPROPRIATIONS

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REQUEST FOR SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1986 AND APPROPRIATION LANGUAGE CHANGES FOR FISCAL YEAR 1987, PURSUANT TO 31 U.S.C. 1107

MARCH 18, 1986.—Referred to the Committee on Appropriations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
71-012 O WASHINGTON : 1986

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

For an additional amount for "Salaries of supporting personnel", $12,000,000 *of which $2,000,000 shall be derived by transfer from "Salaries of judges", and $10,000,000 shall be derived by transfer from "Expenses of operation and maintenance of the courts".*

This proposal would not affect outlays.

Mr. SMITH. How are you going to absorb the sequestration of $39,265,000 for FY 1986?

Judge CLARK. What we propose at the present time to do, is subject to action on Friday of this week by the Executive Committee of the Judicial Conference of the United States, and then, depending upon what the Executive Committee decides, perhaps upon action by the entire Judicial Conference in March at its regular meeting.

The Budget Committee was charged by the Chief Justice with the responsibility of looking at the effect of this sequestration. We immediately saw that it was going to be disastrous if we took a $20 million reduction in Salaries of Supporting Personnel. We already have a number of divisions, particularly in the bankruptcy area that are severely in trouble with regard to personnel needs right now.

So our strongest recommendation to the Executive Committee and then to the Judicial Conference if necessary is going to be to make some adjustments to stay within the sequestered amount but to take the impact of sequestration within different accounts.

REPROGRAMMING REQUEST

Mr. SMITH. Does that require reprogramming?

Judge CLARK. Some of this can be done through reprogramming; some of it is going to require transfer of funds between appropriation accounts. If this is the final plan that the Judicial Conference wishes to implement, then we will come back to the Committee as soon as possible with requests to the Committee for those transfers requiring legislation along with a full explanation of our reprogramming request within appropriation accounts.

Mr. SMITH. That transfer would probably be a part of some supplemental appropriations bill, and I do not know when there will be a supplemental. We may have an urgent supplemental in March, but the next one might not be ready for passage for a couple of months.

What about the timing of it?

Judge CLARK. If necessary we can get the information to you on an estimated basis as soon as there is any indication that there would be a chance to get an early supplemental. We would like to wait. If that supplemental does not materialize, then we would like to wait until the full Conference acts, but if it is necessary, the Budget Committee, with the approval of the Chief Justice, is prepared to go ahead with a recommendation.

Mr. SMITH. My question is what timing for a supplemental would be necessary to transfer these funds?

Judge CLARK. We would have to have the authority to transfer by the end of the fiscal year, perhaps before then.

Let me amend that by saying the transfer of funds should take place as soon as possible. I think that it would be critical in the sense that we would get into a deficiency situation and have to stop certain programs if we do not have final action soon.

SUPPLEMENTALS AND TRANSFERS

Mr. SMITH. Are we talking about fiscal 1986 money?

Judge CLARK. Yes. That is right. It would have to be sooner than that.

We do have two supplementals that we are requesting for the 1986 fiscal year.

Mr. SMITH. Actually it would probably come in the principal supplemental we will have.

Judge CLARK. Yes, and those have been requested in the opening statement.

Mr. SMITH. Last year it turned out to be August before a supplemental was enacted. I am just guessing now, though, that it would still be the end of July before a supplemental passed.

Judge CLARK. Jurors are a supplemental that we have requested, and, as you know, Mr. Chairman, this is an appropriation that we have no control over. When the call comes for jurors, we have to bring them in. The only option we have would be in civil cases to simply deny the right of a jury trial and let those cases wait. If the parties insist on maintaining the jury, let those cases wait. But we think that it will probably be the first of June before we are in that financial pickle.

That is the basis of our request for a supplemental. In the transfers, the transfers that we anticipate would be to take some of the money out of Salaries of Judges and put it into the Defender Services appropriation, take some of the money out of Operation and Maintenance and put it into Salaries of Supporting Personnel.

The difficulty is that we have considered a whole range of options, and we are presenting to the Executive Committee a whole range of options so that fixing the exact dollar amount of those transfers is our difficulty today before you.

We will get that information as soon as possible and get it to you.

THURSDAY, FEBRUARY 27, 1986.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

STUDY OF CONSTRUCTION OF OFFICE BUILDING

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

WITNESSES

GEORGE M. WHITE, ARCHITECT OF THE CAPITOL

WILLIAM L. ENSIGN, ASSISTANT ARCHITECT

WILLIAM F. RAINES, JR., ADMINISTRATIVE ASSISTANT

J. RAYMOND CARROLL, DIRECTOR OF ENGINEERING

EMANUELE CRUPI, BUDGET OFFICER

Mr. SMITH. The next items we shall consider are FY 1986 supplemental requests for "Study of Construction of Office Building", $2,000,000 and "Care of the Building and Grounds", $46,000 for the Supreme Court of the United States.

We shall insert the justification materials submitted in support of these requests at this point in the record.

[The justification materials follow:]

Justification

For fiscal year 1986 the Judiciary is requesting authorization for an additional 200 permanent deputy clerk positions to staff bankruptcy offices in district courts and $1,200,000 to fund these positions for a period of three months (July 1 through September 30, 1986). Justification is based entirely on unanticipated increases in bankruptcy workload.

In preparing the fiscal year 1986 appropriation estimates the number of positions requested for bankruptcy clerks offices in the district courts was based on a projected workload of 390,000 petition filings and 70,000 adversary proceedings (excluding motions to lift the automatic stay and motions for release of a lien). Based on recent economic data relevant to bankruptcy, these projections have been revised upward. The current forecast now indicates that the courts will process approximately 440,000 petitions and 72,000 adversaries in 1986, increases of 12.8 and 2.9 percent, respectively. As depicted in the table below, filings under Chapter 7 are expected to increase by 30,000 or 11.3 percent. The number of filings under Chapter 13 will likewise increase by 16,000, or 15.5 percent. The most dramatic change, however, will occur in Chapter 11 cases where the number of petitions filed is expected to rise by 4,000, a growth of 18.2 percent. Because of their size and complexity these additional Chapter 11 cases will have a significant impact on the personnel resource requirements of the courts.

Workload Category	FY 1986 Appropriation Estimate	FY 1986 Revised Projection	Increase	Percent Change
Chapter 7	265,000	295,000	+30,000	11.3%
Chapter 11	22,000	26,000	+4,000	18.2%
Chapter 13	103,000	119,000	+16,000	15.5%
Total	390,000	440,000	+50,000	12.8%
Adversary Proceedings	70,000	72,000	+2,000	2.9%

Through application of a new staffing formula developed by the Administrative Office and approved by the Judicial Conference in March 1985, it is estimated that an additional 200 permanent deputy clerk positions will be necessary to accommodate the projected increases in bankruptcy workload. In establishing this requirement, the Judiciary has taken into account an estimated 122 positions saved from automated noticing and "contracting out." The estimated three-month and recurring annual cost of these positions is detailed below:

	FY 1986 Supplemental (3 months)	FY 1987 Annualization (9 mos.)	Total Recurring Cost
Personnel compensation	$1,025,000	$2,900,000	$3,925,000
Personnel benefits at 17.0%	175,000	500,000	675,000
Total	$1,200,000	$3,400,000	$4,600,000

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of Jurors and Commissioners," $3,800,000, to remain available until expended.

Presently available	$43,400,000
Proposed supplemental	3,800,000
Revised estimate	$47,200,000

Program and Financing

	1986 Presently Available	1986 Revised Estimate	1986 Proposed Supplemental
Program by activity:			
1. Jury commissioners	$ 55,000	$ 55,000	$ .....
2. Land commissioners	450,000	450,000	.....
3. Grand jurors	12,507,000	12,985,000	478,000
4. Petit jurors	30,388,000	33,710,000	3,322,000
Total Obligations	43,400,000	47,200,000	3,800,000
Financing:			
Budget authority	43,400,000	47,200,000	3,800,000
Relation of obligations to outlays:			
Obligations incurred, net	43,400,000	47,200,000	3,800,000
Obligated balance, start of year	1,801,000	1,801,000	.....
Obligated balance, end of year	.....	-2,360,000	-2,360,000
Outlays	$45,201,000	$46,641,000	$1,440,000

Analysis by Object Class

		1986 Estimate	1986 Revised Estimate	1986 Proposed Supplemental
11	Personnel compensation:			
	Jury commissioners	$ 51,000	$ 51,000	$ .....
	Land commissioners	428,000	428,000	.....
	Jurors	27,583,000	30,032,000	2,449,000
	Total personnel compensation	28,062,000	30,511,000	2,449,000
12	Personnel benefits	26,000	26,000	.....
21	Travel and transportation of persons	14,012,000	15,202,000	1,190,000
25	Other services (meals and lodging furnished sequestered jurors)	1,041,000	1,179,000	138,000
26	Supplies and materials (refreshments for jurors)	259,000	282,000	23,000
	Total Obligations	$43,400,000	$47,200,000	$3,800,000

Justification

The Congress has approved an appropr
$43,400,000 for the no-year account
Jurors and Commissioners" for fiscal y
This amount is $2,800,000 less than the a
tion requested, and $3,800,000 less than
mated requirements. The fiscal year 19
request was based on statistical foreca
projected a total of 685,000 petit ju
However, based on substantial increases
jury activity, which commenced in the las
of fiscal year 1985 and is expected to
through 1987, it was necessary to re
estimate upward to 725,000 petit juror da
additional $600,000. In addition, the fi
1985 budget submission was formulated ba
estimated 665,000 petit juror days. How
to the increase in petit juror usage, t
number of petit juror days totaled 6
30,761 more than the budget level. Thes
cipated additional juror days required f
$400,000 above the amount available.

This account is, for the most part, uncontrollable by its nature in that expenditures are essentially predicated on trial activity. The Judiciary is continuing to realize better juror utilization as indicated by the "first day" statistic on jury utilization. The average percentage of jurors not selected, serving or challenged on the first day for the fiscal year ending September 30, decreased from 36.5 in 1984 to 34.3 in 1985, an improvement of 6.0 percent. Although the improvement in juror utilization moderates to some extent the overall financial impact of increased juror usage, it cannot compensate completely for the anticipated increase in juror activity. Given the latest projections, our requirements will total $47,200,000 in fiscal year 1986. With an appropriation of $43,400,000, supplemental funding in the amount of $3,800,000 will be required in fiscal year 1986. Of this amount, $2,800,000 will be necessary to restore the appropriation to the amount requested for fiscal year 1986, $600,000 to accommodate projected increases in juror usage and $400,000 to restore the 1986 availability which was utilized to liquidate obligations incurred in fiscal year 1985 above our available appropriations.

$2 MILLION BUILDING STUDY REQUEST

Mr. SMITH. This request for $2 million for the study of construction of an office building. Tell us some more about that. Why is that study needed and what items are going to be subjects of the study?

Mr. WHITE. The authorization bill was passed, as I think you are aware, Mr. Chairman, for this study to be made which involves the use of Capitol grounds property immediately to the east of Union Station to be used for the Administrative Office of the United States Courts. There were two goals that the administrative offices have had for a long time along with the Chief Justice, of course, under whom that comes directly for jurisdiction. One of the goals was to consolidate their offices. They are in five different buildings now. It has grown over the years. If I may refresh your recollection, the Administrative Office of the Courts used to be housed within the Supreme Court Building. It was a small operation and grew and grew until there were 15 or 20 people, and during the tenure of Chief Justice Warren in the fifties, it grew big enough and the Court itself had its own growth taking place so that the administrative office was moved out of the Supreme Court building into a downtown office through GSA. It continued to grow and now they are in five different buildings. It is obviously difficult to manage a single office that is in five different geographical locations.

Secondly, another important consideration was the need for geographical proximity to the Court building, if possible, because the Administrator of the Administrative Offices is in continuous contact and the Chief Justice asked me to consider that problem during the course of the preparation of our master plan, which you may recall was presented to the Congress in 1981. During the course of preparation of that, since it involved the Hill, we conferred with the Chief Justice who requested that we find a way, if possible, in the master plan to provide for that future need. We did that and indicated the area just to the east of the Union Station. That is now coming to fruition through this authorization for us to make a study.

The Subcommittee on Public Buildings and Grounds of the Public Works Committee on the House side had passed a proposed bill to appropriate funds directly for the construction of a building for the courts on that site, but it became apparent and I think everybody agreed there would be some difficulty in having $71 million appropriated for a new building.

PRIVATE SECTOR INVOLVEMENT

So, the concept was developed that the private sector might be able to build a building on that site. The government, which presently pays an amount for leasing the space that it occupies through GSA, could lease a portion of the building. The building would be built large enough to handle the ultimate needs of the administrative offices. The private developer would then build it, the government would, in effect, supply the land. The private developer could lease, let us say, the other half of the building, if it worked out to be half and half in initial occupancy. Then after a certain number of years the building could revert to the government, the developer would have received his profit through the government leasing and the private sector portion.

If that should all work out as planned in those broad terms, then in effect the government would have obtained a building without having the expenditure of funds or at least with a minimum expenditure. With that in mind, this feasibility study was thought to be important in order to determine whether and how the various alternatives for that very broad proposal which I have described could be developed.

We have submitted a draft report. We are required to submit a report finally to the Public Works Committees of both Houses after the funds are appropriated.

It occurred to me on the presumption that funds would be appropriated and because time is of the essence that we could begin now with those of us already on the payroll to develop the program and begin to examine the method of procedure. We have submitted the draft for your review so you can see in greater detail what I have described in broad terms.

Mr. SMITH. Does this include architect's fees?

Mr. WHITE. It includes whatever architect fees might need to be established for this work.

Mr. SMITH. Is that in-house?

DESIGN IMPORTANCE

Mr. WHITE. No, we would have to augment our in-house forces. We are not big enough to do projects of any great magnitude. In addition to that, there is a strong consideration, a compelling consideration being given to the fact that this is a very monumental area with two landmark buildings, the Union Station building and the Post Office building on the west and that therefore the design of this building is something that is very important. In addition to the economics which are obviously of importance, we have to be certain that the design is compatible with that monumental area. It faces, as you know, the Capitol and Columbus Plaza.

Mr. SMITH. Does it include that whole area there?

Mr. WHITE. No. It includes only the property to the east of Union Station. The Capitol grounds extend alongside present Union Station. There are two lots there that would be combined together.

Mr. SMITH. It would be on both lots?

Mr. WHITE. It would be on both lots.

Mr. SMITH. It does not have anything to do with the area in the southeast that the Government owns?

Mr. WHITE. No, it has nothing to do with that. You are talking about the old Providence Hospital site. That is a long way from this location.

Mr. SMITH. That location is not all that close to the Supreme Court.

Mr. WHITE. You are correct. It is, however, only a few blocks away. It is within walking distance. The Metro station is there. Many people take that Metro every day and walk to the House and Senate side. It is true it is not immediately adjacent but it is closer than downtown.

STUDY COMPLETION REQUIREMENT

Mr. **Smith**. When would you be able to complete this study?

Mr. **White**. The authorization bill required that the study be completed by August 15.

Mr. **Smith**. Of this year?

Mr. **White**. Of this year, and, of course, that was based on a presumption that money would be available. There had been funds placed in the appropriations bill, $2 million, on the Senate side prior to this authorization bill having passed. It was removed on the House side because there was no authorization. But in the course of the preparation of the legislative language, it was presumed the money was going to be available, so we were given about nine months in which to prepare the work.

We have taken the position that the requirement would be extended based upon the time when the money was available. If we don't get money until June or July, it is obvious we could not complete by that time. Time is of the essence and we would proceed with all deliberate haste.

Mr. **Smith**. How many months?

Mr. **White**. We think six to nine months and the various alternatives would then be presented to the Public Works Committees for approval or disapproval or modification, or whatever. So, the final judgments would be made by the Congress in terms of how to proceed.

Mr. **Smith**. Mr. Dwyer.

Mr. **Dwyer**. I have no questions, Mr. Chairman.

Mr. **Smith**. Thank you Mr. White for your appearance today.

WEDNESDAY, MARCH 19, 1986.

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

WITNESSES

ORSON G. SWINDLE, III, ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

WILLIAM F. DOHR, DEPUTY ASSISTANT SECRETARY FOR OPERATIONS

MICHAEL OBERLITNER, ACTING DEPUTY ASSISTANT SECRETARY FOR FINANCE

EUGENIE FOSTER, ACTING CHIEF COUNSEL

BRIAN WHALEN, DIRECTOR OF MANAGEMENT AND ADMINISTRATION

VINCE GOODMAN, BUDGET OFFICER

STEVE BRENNEN, DIRECTOR OF CONGRESSIONAL RELATIONS

Mr. SMITH. This morning, we have proposals for rescission of 1986 funds and the deferral and transfer of some other $40 million for EDA.

Here to testify is the newly appointed Assistant Secretary for EDA, Orson Swindle.

CURRENT FY 1986 OPERATIONS

Are you still authorizing applications to be submitted?

Mr. SWINDLE. Yes, sir. We are going ahead throughout this fiscal year to date with work as normal. We all recognize the uncertainty of a positive response to the requested rescission. Certainly, if you look at past efforts in this regard, we can perhaps predict the outcome. Regardless of the outcome, I have personally taken the philosophy—and I have been in this situation in similar circumstances before with the Farmers Home Administration where there was a debate over whether certain programs would continue—we have to keep on with the work, because I think to do otherwise would be irresponsible.

We are processing applications as normal. We have authorized a substantial number to date. We had projected milestones or benchmarks for obligations and authorizations through the course of the fiscal year. We are pretty well running along, if not ahead, of target right now.

Mr. SMITH. The 45-day period runs out April 15, and we had a subcommittee meeting the other day. If I remember right, it was a unanimous "no" to approve the rescission. So that will run out April 15.

On the other hand, there is this proposed deferral and transfer which is a little different problem. I assume that a resolution to disapprove the transfer will be included in some bill, but won't be done by April 15. That will come some time later.

The sequestration you mentioned is $7,891,000. In the way that law is set up, are you interpreting it that you have to reduce some out of each one of these programs?

Mr. GOODMAN. Yes, sir, across the board.

Mr. SWINDLE. Across the board, yes, sir.

Mr. SMITH. What was the average size of the grant in 1986?

Mr. Goodman. The average size of the public works grant is about $565,000.

Mr. Smith. As you see it now, will this Gramm-Rudman reduction reduce the average size of grants, or will it reduce the number of grants?

Mr. Swindle. I personally don't know that we could necessarily predict that. I think the grants themselves—and I have a lot of experience in dealing with these in another agency—they are independent of others and have their own characteristics. I think it would be just a matter of funding those that rise to the top and are approved, and it would be very difficult to predict one way or the other.

THE IMPACT OF SEQUESTRATION

Mr. Smith. The sequestration we were talking about, do you expect that to require RIFs or furloughs?

Mr. Swindle. No, sir, not this year. We anticipate no more than 10 furlough days, and we just frankly don't anticipate much of a ripple at all on that. We think we can handle it without any adverse actions.

Mr. Smith. What about reprogrammings?

Mr. Swindle. No, sir.

Mr. Smith. You don't anticipate that?

Mr. Goodman. Not at this time, sir.

PUBLIC WORKS PROGRAMS

Mr. Smith. We did have a local public works program. It was when we were trying to spur employment.

Mr. Swindle. 1977, I believe.

Mr. Smith. That is an example of EDA. That is when they looked around for some place to get some jobs, it doesn't do any good to have jobs after the recession is over. You need something that is ready to go right then. EDA had the structure, and it was a logical place, and I think that for the money—you can argue about whether or not there should have been any—the money put in EDA probably did as much good as anyplace else in that jobs program. There were little amounts left over in some States.

What is the status of that audit to determine how much is left over? What is its status?

LOCAL PUBLIC WORKS DE-OBLIGATIONS

Mr. Goodman. As of January 1st, we had approximately $22 million in the States cited in the conference report that was unliquidated. Unfortunately, that did not mean that the funds were not going to be used subsequently.

At present, we have $15.6 million in five States cited in the conference report.

Mr. Smith. In the five States?

Mr. Goodman. Yes, sir. We have a total of $30 million unliquidated. But it was only five States in the conference report.

Mr. Smith. All right.

Mr. Goodman. Four States and the City of New York.

Mr. Smith. What is the status overall of this audit? When will we know exactly how much is left in every State?

Mr. Swindle. Congressman, if I may address that, I have gotten a pretty good briefing on this, and I think I understand the process quite well. The problem is in fully realizing where these projects are. We depend upon the grant recipient to give us that final audit that closes the books on a project, and until they do so we never really have a firm figure of what might be left over. And even then, after they close it, they have certain prerogatives that they can come back in and request that we fund from whatever excess may have been identified for an expense that they had not realized yet.

It makes it sort of difficult to start spending money that you think is left over when there might yet be claims against it. We currently have 31 projects that are theoretically closed, but still with that little caveat that they can come back against it.

There is about $4.2 million involved in that. I am speaking of New York City, where the bulk of these things are. There are some 93 there alone that are in question. There are some 62 of those 93 that are still open. There is possibly as much as over $10 million left there. But, as time goes on, that figure will continue to come down.

The problem that we have trying to identify what is actually available. There is no way to really ascertain that. These projects have time to go.

LOCAL PUBLIC WORKS MILESTONES

Mr. Smith. How long will it take? What kind of a time schedule are we talking about? There must be some cut-off eventually.

Mr. Swindle. I have asked the same question, Congressman. I personally want to know why, for example, one grant to the Brooklyn Navy Yard, which was supposed to have been really expeditiously acted on, has never been done. Nothing has been done on it. We haven't even gotten the proper plans yet, and it has been out there for quite some time.

Oftentimes, a recipient does not move on these things. I am trying to put into effect a management system that will insist, if not demand and coerce, if necessary, people to get on with it, because it represents moneys, quite frankly, that if they aren't going to use, somebody else could.

You know, we have only a limited amount of money, and we might as well use it more effectively than that.

Mr. Smith. Not only that, but under this program the understanding was that we want jobs now.

Mr. Swindle. Yes, sir.

Mr. Smith. Not several years from now.

Mr. Swindle. You are absolutely right.

I can cite an example in Georgia where we were pushed to the nth degree in Farmers Home to provide around $3 million, I think it was, in loan and grant funds to a small town in dire need of a sewage system. To date, they still have not gone forward with that. And I am trying to put pressure on, as well as provide some EDA assistance, to try to put the last little piece of glue to make the thing go.

One of the problems I think is inherent in the program that was adopted is the nature of what the funds were for. Public works, typically are very complex, highly involved engineering activities, and by definition are almost impossible to do something quickly with it.

Mr. SMITH. They were to be projects that were ready to go?

Mr. SWINDLE. Yes, sir. But, apparently, in looking back at the experience with Farmers Home, as well as looking back at the audit of these particular programs, I am not sure that was totally understood by all. But with regard to the main question here concerning when will we know, I honestly don't know that I can give you an answer.

We will try to project an answer for you, but the big problem that I see with any pressure for us to go ahead and start using, this money is simply this: I could easily be put in a position where I am allowing to be spent money that does not exist. That puts me in a very difficult position, and we are being vey careful of that.

Mr. SMITH. We had a $50 million program administered through SBA for unemployed youth planting trees in parks in the 9123 Jobs Bill. We put a termination date on that. I think it was October the 1st of that year. And we didn't grant any extensions. And it was spent.

Mr. SWINDLE. Yes, sir.

Mr. SMITH. It was used.

Mr. SWINDLE. I think that is a very good idea, except getting kids to go plant trees is not exactly the same.

Mr. SMITH. No.

Mr. Swindle. You know, as engineering projects and things like that, I think it is the nature of it. But I do think there ought to be a cut-off date, and if it is not done, it should be cut off.

Mr. SMITH. Yes.

Mr. SWINDLE. Or transferred if it can be done, or reprogrammed.

MONDAY, MARCH 10, 1986.

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

WITNESSES

NORMAN A. CARLSON, DIRECTOR, BUREAU OF PRISONS

WADE B. HOUK, ASSISTANT DIRECTOR FOR ADMINISTRATION

GERALD M. FARKAS, ASSOCIATE COMMISSIONER, FEDERAL PRISON INDUSTRIES, INC.

RAYMOND C. BROWN, DIRECTOR, NATIONAL INSTITUTE OF CORRECTIONS

LUMAN N. RENSCH, JR., CHIEF, OFFICE OF BUDGET DEVELOPMENT

DAVID J. SWEDA, BUDGET OFFICER, OFFICE OF BUDGET DEVELOPMENT

W. LAWRENCE WALLACE, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

Mr. EARLY. The committee will come to order. Next we shall consider the request for a fiscal year 1986 program supplemental of $10,620,000 for Salaries and Expenses for the Federal Prison System.

We shall insert at this point in the record the justification material submitted in support of this request.

[The justification material follows:]

THE JUDICIARY

STUDY OF CONSTRUCTION OF OFFICE BUILDING

For an amount to enable the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for the construction of a building or buildings to meet the current and future needs of the Judicial Branch and such other commercial, governmental, cultural, educational, and recreational activities which may appropriately be located in such building or buildings, $2,000,000 to remain available until expended

OBLIGATION AND OUTLAY SCHEDULE

	FY 1985	FY 1986	FY 1987
Obligations..	.....	$2,000,000	.....
Outlays..	.....	$2,000,000	.....

Funds in the amount of $2,000,000 are requested in the fiscal year 1986 supplemental to provide a study for the construction of a building(s) as authorized in Public Law 99-229.

The Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, shall jointly study alternatives for the construction of a building(s) to meet the current and future needs of the Administrative Office of the United States Courts, the Federal Judicial Center, and other judicial functions, and activities which the Architect and Secretary determine may appropriately be located in the office building(s).

The study, as prescribed by Public Law 99-229, December 28, 1985, shall include the following items:

(1) A study of alternative sites and designs of the building(s) and the estimated costs of each alternative.

(2) An analysis of retail, commercial, cultural, social, educational, and recreational activities which may appropriately be located in the building(s).

(3) An analysis of methods for providing security, utility, fire and other related services for the building(s) and of dividing the cost of providing such services among the occupants of the building(s).

(4) An analysis of methods for design and constructing the building(s) in the most feasible and economical manner.

(5) An analysis of methods for financing the construction of the building(s), including methods to minimize or eliminate initial capital investment by the United States through the use of public-private partnerships or nongovernmental sources of financing the construction.

Background

For more than a decade the Chief Justice of the United States has sought to consolidate the judiciary's administrative activities in a single location in close proximity to the Supreme Court. Currently, the Administrative Office of the United States Courts, which administers funding, budget, accounting, and other details of judicial administration, is located at five different locations, and the Federal Judicial Center, the research and development arm of the Federal judiciary, is located at three different locations in the Washington, D.C. metropolitan area. Although both of these judicial activities have approximately [illegible] employees between them, the dispersion of [illegible] severely hampers, on a daily basis, the efficiency and effectiveness of both agencies. The Judicial Conference of the United States has expressed concern that [illegible]

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For an additional amount for "Care of the Building and Grounds," $46,000.

Presently available	$2,275,000
Proposed supplemental	46,000
Revised estimate	$2,321,000

1986 Program Supplemental Request

Item 1. Purchase of Electrical Energy ($46,000)

The total requested $46,000 is a fiscal year 1986 program supplemental for the purchase of electrical energy from the Potomac Electric Power Company.

The $46,000 is needed to augment our fiscal year 1986 appropriation of $250,000 for electrical energy, thereby requiring the current estimated amount of $296,000. This amount is based on a projected procurement of 4,072,640 kilowatt hours of electrical energy at an average cost of 7.2635 cents per kilowatt hour, including demand charges, surcharges, and fuel adjustment charges.

No electrical energy rate increase has been projected for fiscal year 1986. The 1986 increase of $46,000 is based on an anticipated 4 percent increase (156,640) in consumption of kilowatt hours. This projected increase in consumption is in line with fiscal year 1985 when consumption increased by 5.7 percent.

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STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised

Supplemental requested, existing legislation

DEPARTMENT OF JUSTICE
FEDERAL PRISON SYSTEM
SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

Identification code 15-1060-1-1-753	1986 Presently available	1986 Revised estimate	1986 Proposed supplemental
Program by activities:			
Direct Program:			
Operating expenses:			
1. Inmate care, custody and programs	312,865	318,918	6,053
2. Institution administration and maintenance	151,012	154,967	3,955
3. Community corrections	55,373	55,373	...
4. Program direction	25,150	25,150	...
Total operating costs	544,400	554,408	10,008
Total capital investment	12,500	13,112	612
Total direct program	556,900	567,520	10,620
Reimbursable program	13,600	13,600	...
10.00 Total obligations	570,500	581,120	10,620
Financing:			
Offsetting collections from:			
11.00 Federal funds	-4,135	-4,135	...
14.00 Non-Federal sources	-9,465	-9,465	...
40.00 Budget authority (appropriation)	556,900	567,520	10,620
Relation of obligations to outlays:			
71.00 Obligations incurred, net	556,900	567,520	10,620
72.40 Obligated balance, start of year	52,526	52,526	...
74.40 Obligated balance, end of year	-67,858	-68,708	-850
90.00 Outlays	541,568	551,338	9,770

STANDARD FORM 304
May 1969 Bureau of the Budget
Circular No. A-11 Revised
304-[illegible]

Supplemental requested, existing legislation
DEPARTMENT OF JUSTICE
FEDERAL PRISON SYSTEM
SALARIES AND EXPENSES

OBJECT CLASSIFICATION (in thousands of dollars)

Identification code 15-1060-1-1-753	1986 Presently available	1986 Revised estimate	1986 Proposed supplemental
Personnel compensation			
11.1 Permanent positions	265,264	265,264	...
11.3 Positions other than permanent	1,797	1,797	...
11.5 Other personnel compensation	19,092	19,092	...
~~11.8 Special personal services payments~~			
Total personnel compensation	286,153	286,153	[illegible]
Personnel benefits			
12.1 Civilian	43,734	43,734	...
13.0 Benefits for former personnel	65	65	...
21.0 Travel and transportation of persons	8,078	8,111	[illegible]
22.0 Transportation of things	3,037	3,037	...
23.1 Standard level user charges	636	636	...
23.2 Rental payments to others	100	100	...
23.3 Communications, utilities and miscellaneous charges	[illegible]	[illegible]	[illegible]
24.0 Printing and reproduction	829	829	...
25.0 Other services	[illegible]	[illegible]	[illegible]
26.0 Supplies and materials	79,830	86,229	6,399
31.0 Equipment	12,150	13,062	912
~~32.0 Lands and structures~~			
~~33.0 Investments and loans~~			
41.0 Grants, subsidies, and contributions	944	[illegible]	[illegible]
42.0 Insurance claims and indemnities	18	[illegible]	[illegible]
~~43.0 Interest and dividends~~			
44.0 Refunds			
99.0 Total direct obligations	552,079	562,699	10,620

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STANDARD FORM 304
July 1964, Bureau of the Budget
Circular No. A-11, Revised
300-101

Supplemental requested, existing legislation
DEPARTMENT OF JUSTICE
FEDERAL PRISON SYSTEM
SALARIES AND EXPENSES

OBJECT CLASSIFICATION (in thousands of dollars)

Identification code 15-1060-1-1-753	1986 Presently available	1986 Revised estimate	1986 Proposed supplemental
Reimbursable Obligations...........	13,600	13,600	...
Total obligations, Department of Health and Human Services.....	4,821	4,821	...
99.0 Total obligations...............	570,500	581,120	10,620

DEPARTMENT OF JUSTICE

Federal Prison System

Salaries and expenses

Supplemental Estimate, Fiscal Year 1986

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DEPARTMENT OF JUSTICE

Federal Prison System

Salaries and expenses

For an additional amount for "Salaries and expenses", $10,620,000.

Explanation of Request

Supplemental funding would provide resources to support an additional average daily inmate population of 2,779 (from 33,790 to 36,569).

Authorization Requirements

The 1986 appropriation authorization has not been enacted. Public Law 96-132, the Department of Justice Appropriation Authorization Act for 1980, was the last enacted authorization legislation for the Department. This Act, including funding authorization for the Department's activities, has been extended for 1986 by Public Law 99-180 dated December 13, 1985.

Federal Prison System

Salaries and expenses

Summary of Requirements
(Dollars in thousands)

Comparison by activities	1986 Presently Available Perm. Pos.	1986 Presently Available WY	1986 Presently Available Amount	1986 Revised Estimates Perm. Pos.	1986 Revised Estimates WY	1986 Revised Estimates Amount	1986 Proposed Supplemental Perm. Pos.	1986 Proposed Supplemental WY	1986 Proposed Supplemental Amount
1. Inmate care, custody and programs....	8,141	7,853	$320,303	8,141	7,853	$326,968	...	...	$6,665
2. Institution administration and maintenance........................	2,254	2,208	153,880	2,254	2,208	157,835	...	...	3,955
3 Contract Confinement.................	71	78	55,383	71	78	55,383	...	...	...
4. Program direction....................	410	446	27,334	410	446	27,334	...	...	...
Total Requirements....................	10,876	10,585	556,900	10,876	10,585	567,520	...	...	10,620

Federal Prison System

Salaries and expenses

Justification of Requirements
(Dollars in thousands)

Activity	Population Increase Amount
1. Inmate care, custody and programs:	
Inmate care	$5,156
Institution security	389
Unit management	431
Inmate programs	689
Subtotal	6,665
2. Institution administration and maintenance:	
Institution administration	286
Institution maintenance	3,669
Subtotal	3,955
Total Requirements	10,620

Based on a November 1985 analyses of inmate population trends, prosecution and court statistics and workload projections of the FBI and the DEA, the Federal Prison System (FPS) projects that the average daily inmate population will be at least 36,569 in FY 1986 (2,779 over the previous estimate of 33,790). An additional $10,620,000 is required to provide for food, medical, clothing, inmate transportation, unit management, education, recreation, religious, psychology and maintenance costs associated with the projected increase of 2,779 in the average daily population.

It should be noted that the Bureau of Prison's population projections traditionally have been conservative. The Comprehensive Crime Control Act of 1984, the indefinite postponement of the agreement to return the excludable Mariel Cubans, and the Department of Justice agreement to accept all D.C. Code felons and misdemeanants sentenced to prison and jails will, in all likelihood, further increase the Federal prison population. The FPS will continue to analyze these factors and revise population estimates as necessary.

Federal Prison System

Salaries and expenses

Financial Analysis

(Dollars in thousands)

Item	1986 Proposed Supplemental Amount
Travel and transportation of persons	$159
Communications, utilities and miscellaneous charges	2,576
Other services	2,296
Supplies and materials	4,899
Equipment	612
Grants, subsidies and contributions	78
Total workyears and obligations, 1986	10,620

Mr. EARLY. Mr. Carlson we shall insert the portion of your statement pertaining to the supplemental request in the record and then ask you some questions.

[The Statement follows:]

BUDGET FOR FY 1986

As you know, the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) requires that we reduce each program by 4.3 percent. This across-the-broad reduction would require us to furlough thousands of correctional officers-obviously an unacceptable course of action. The Department of Justice will shortly submit a reprogramming to the Subcommittee which will permit us to implement the sequestration order without compromising the safety of staff and inmates. This reprogramming is critical to the continuity of the Bureau's operations and I urge the Committee's support of it.

The 1987 budget separately transmits a 1986 supplemental request of $10,620,000 to increase subsistence and operations funding for an average annual inmate population of 36,569, an increase of 2,779 above the level provided for in the current fiscal year. Since we must expand inmate subsistence funds as the increases occur, passage of the Supplemental is essential to us.

Mr. EARLY. You are requesting a supplemental of $10,620,000 to support an average annual population of 36,569 inmates. Since you already have more than 38,000 inmates, is this supplemental going to be adequate?

Mr. CARLSON. In all probability, the answer is no. The population has far exceeded our expectations. I seriously doubt we will be operating the rest of the fiscal year with the figure we gave you. That figure was developed some time ago, before we took the D.C. offenders, and when we thought the Mariel offenders would be released and returned to Cuba.

INMATE POPULATION PROJECTONS

Mr. EARLY. On page 16 of the justifications, you are projecting an average daily population of 37,812 in your institutions. This is an increase of 1,243 from the projection for fiscal year 1986. For the last several years, your population projections in the budget documents have been underestimated and it has been necessary for you to request a supplemental for subsistence costs to accomodate the increase in the population.

This budget document was prepared last fall. Do you believe that your estimate for 1987 is still accurate?

Mr. CARLSON. Mr. Chairman, I have to say that those projections are low. They were put together a number of months ago, and at the time we had no idea that we would have the D.C. influx.

Mr. EARLY. Provide for the record the amount of money you need to offset the increase in population from what you requested in the supplemental. Because now you are seeing numbers that are much higher—I want to know how much you need in addition to the $10,620,000 to adequately do the job.

Mr. CARLSON. We will supply that, Mr. Chairman.

Mr. EARLY. For 1986 and 1987.

[The information follows:]

PROJECTIONS ABOVE SUPPLEMENTAL LEVEL

The Bureau currently estimates that the average inmate population for 1986 will total 37,850, an increase of 1,281 above the level projected in the 1986 supplemental request. The total supplemental required to support this population level is

$15,500,000, an increase of $4,880,000 above the amount contained in the pending supplemental request.

A recalculation of the 1987 estimate, based on the latest actual inmate population and recent trends, would increase the average inmate population to 40,789, an increase of 2,977 above the original estimate contained in the 1987 budget. An increase of $16,765,000 will be required to finance this population level in 1987.

D.C. CORRECTIONS

Mr. Early. It is my understanding that in February the D.C. Government filed suit in the U.S. District Court to force the Federal Government to take newly sentenced D.C. inmates into the Federal Prison System.

What impacts have the overcrowded D.C. facilities had on the system?

Mr. Carlson. The D.C. situation has exacerbated the overcrowding problem. Since the court order we have taken 1,500 additional inmates into our system.

Mr. Early. What are the costs involved?

Mr. Carlson. Significant. I will provide that for the record.

[The information follows:]

Costs Associated With D.C. Prisoners

Most of the D.C. Code violators have been housed at the Federal Correctional Institution, Petersburg, Virginia. Based on actual per capita costs at Petersburg, it is costing approximately $56,000 per day to house D.C. Code offenders, an amount exceeding $5 million for the first quarter of this fiscal year.

REIMBURSEMENT FOR D.C. PRISONERS

Mr. Carlson. D.C. does reimburse us, but the money goes to the Treasury. So, in essence, we don't benefit from the payment.

Mr. Early. Has that been included in the supplemental?

Mr. Carlson. The supplemental was formulated prior to the influx of D.C. inmates in the Federal Prison System. That is why the supplemental was short, as we discussed earlier.

Mr. Early. That really doesn't cut it. That is not even a wash for you.

Mr. Carlson. That is why we need the supplemental.

Mr. Early. What has this done to the overcrowded facilities already?

Mr. Carlson. It has put more bodies in areas where we don't like to house inmates. We are double-bunking and using areas for housing that were not intended for that purpose.

Mr. Early. Who pays for the transport of these prisoners?

Mr. Carlson. The Federal Government, specifically, the U.S. Marshals Service.

Mr. Early. Is this a short or long-term arrangement?

Mr. Carlson. I hope it is a short-term problem. The D.C. Government can solve the problem by building another jail.

Mr. Early. What about security problems if they are giving us everybody?

Mr. Carlson. Everybody sentenced at District or Superior Court were coming into our system for that 4½ month period when the Deputy Attorney General informed the Mayor he could no longer do it.

Mr. EARLY. Thank you, Mr. Carlson for your testimony.

TUESDAY, FEBRUARY 18, 1986.

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

WITNESSES

JOHN GAUGHAN, MARITIME ADMINISTRATOR

EARNEST HAWKINS, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

MASON G. NOTTINGHAM, DIRECTOR, OFFICE OF BUDGET

RICHARD E. BOWMAN, ASSOCIATE ADMINISTRATOR FOR MARITIME AIDS

ROBERT PATTON, ACTING CHIEF COUNSEL

ARTHUR FRIEDBERG, DIRECTOR, OFFICE OF MARITIME LABOR AND TRAINING

GARY MISCH, ASSOCIATE ADMINISTRATOR FOR MARKETING AND DOMESTIC ENTERPRISES

Mr. DWYER. This afternoon we will review 1986 activities of the Administration, within the Department Transportation. Here to testify is the Administrator of the Maritime Administration. Mr John Gaughan.

DEFICIT CONTROL ACT

Mr. DWYER. Thank you, Mr. Gaughan.

The fiscal year 1986 sequestration as a result of the Gramm-Rudman Budget Reduction Act reflects a reduction of $426,000 in Research and Development and $2,997,000 in the Operations and Training account. Will you tell us how you are going to manage to do this and still carry out your statutory requirements?

Mr. GAUGHAN. Mr. Chairman, we have found that for the remainder of 1986 that we can apply that reduction of approximately 4.3 percent across each of our program areas uniformly without a need for reprogramming, and to in fact continue to meet our statutory responsibilities.

Mr. DWYER. Will you provide us in exact detail how this reduction will be applied, for the record.

Mr. GAUGHAN. I most certainly will.

[The information follows:]

Balanced Budget and Emergency Deficit Control Act of 1985 (P.L.99-177)
FY 1986 Sequestration

Research and Development

	4.3 Percent Sequestration
Advanced ship development	-$127,000
Advanced ship operations	-109,000
Research facilities	-123,000
Advanced maritime technology	- 67,000
Total, Research and development	-426,000

Sequestration of $127,000 in the Advanced ship development program will be spread evenly over 10 shipbuilding research projects in areas such as welding technology and industrial engineering.

The Advanced ship operations sequestration of $109,000 will result in a reduced level of applied research activities in the area of competitive shipping.

The sequestration of $123,000 in Research facilities will be attained by reducing the level of effort devoted to refinement of the Maritime Administration simulation models for the Computer Aided Research Facility (CAORF).

Sequestration of $67,000 in Advanced maritime technology will result in reduced level of effort in the area of navigations and communications.

Operations and Training

	4.3 Percent Sequestration
Merchant Marine Academy:	
Midshipmen costs	$ -168,000
Instructional program	-258,000
Maintenance, repair and operating requirements	-270,000
Program direction and administration	-148,000
Subtotal, Merchant Marine Academy	-844,000
State marine schools:	
Direct payments	- 26,000

Student incentive payments	-100,000
Maintenance and repair of ships	-344,000
Fuel	- 43,000
Subtotal, State Marine Schools	-513,000
Additional training	- 49,000
National security support capability:	
National defense reserve fleet	-342,000
Emergency planning/operations	- 65,000
Subtotal, National security support capability	-407,000
Operating programs:	
Development of waterborne transportation systems	- 95,000
Use of waterborne transportation systems	-273,000
General administration	-816,000
Subtotal, operating programs	-1,184,000
Total 1986 sequestration	-2,997,000

The 1986 sequestion of $844,000 in the Merchant Marine Academy program will be achieved by a reduced level of repair and replacement of barracks furnishings and instructional equipment, and a reduced level of repairs to the barracks and the physical facilities and equipment.

The State marine school sequestration of $513,000 will be achieved by a reduced level of maintenance and repair of training ships and reduced payments for fuel. The reduction in student incentive payments will not affect individuals already or in the entering class due to lack of applicants for the program.

The sequestration of $407,000 in the National security support capability program will be achieved by reduced level of maintenance and repair of National Defense Reserve Fleet facilities and craft and from attrition of personnel.

Sequestration of $1,184,000 in operating programs will be achieved by reducing travel, reduced personnel costs as a result of attrition as the Agency scales down to 1987 program levels, and a small reduction in services and supplies.

OCEAN FREIGHT/DIFFERENTIAL

Mr. Dwyer. The President's budget for 1987 indicates that you plan to repeal the provisions of Public Law 98-198, which requires the Maritime Administration to finance Ocean Freight differential costs for U.S. flag ships at a level of 50 percent to 75 percent. Explain how this borrowing occurs, and where the funds are expected to be derived from.

Mr. Gaughan. Mr. Chairman, the Secretary is required by the new law to borrow from Treasury funds required to pay Ocean Freight differentials for the added cargo preference cargoes, and for ocean freight costs which are in excess of 20 percent of the total commodity costs and ocean freight costs of the program. These funds would have to be reimbursed to the Department of Agriculture, and that program begins on April 1st.

Mr. Dwyer. Do you anticipate that legislation will be submitted to repeal this requirement?

Mr. Gaughan. Yes, I do.

Mr. Dwyer. Do you have any idea when?

Mr. Patton. My name is Bob Patton, Acting Chief Counsel, Mr. Chairman.

We have that actively underway at the present time, and expect that to come up here shortly, 30 days or 60 days depending upon the process in the Administration.

Mr. Dwyer. Thank you.

DEFERRAL

Would you explain the basis for deferring $9,350,000 into 1987. What is your authority to continue proposing this deferral which Congress has already rejected?

Mr. Gaughan. Mr. Chairman, first of all there are two parts to the $9,350,000 deferral. If I could deal with $8,500,000 to begin with, that is monies that was appropriated for fuel to be used by the state academies, and this is the first time that we have requested deferral of that amount. The administration has never supported the provision of providing fuel money for the academies, and this represents money previously appropriated which has not been used by the schools.

The $8,500,000 represents monies that was appropriated for replacement vessel at the New York State Academy. First of all, that $8,500,000, Mr. Chairman—is not sufficient to acquire and convert a ship of sufficient size for use as a training ship. Additionally, there has been a major change in the Federal relationship to the state marine school program, since action on the last deferral in 1985, and that is that the administration will discontinue financial support for the program in 1987 which includes alteration, maintenance and repair of school ships. Thus the current deferral in our view is different and for another purpose, and the Congress should consider this deferral before directing the administration to proceed with acquiring of a replacement vessel.

Mr. Dwyer. I asked the question, what is your authority to continue proposing deferrals? You told me what you are deferring not what the items are, but would you amplify what your authority is to continue these deferrals.

Mr. GAUGHAN. Because of the changed relationship that we are proposing in elimination of Federal support for the state academies, that is the basis that we are seeking.

Mr. DWYER. Is that going to be in the form of legislation?

Mr. GAUGHAN. It will not be in the form of specific legislation.

Mr. DWYER. Is this just done by administrative fiat?

Mr. GAUGHAN. There is a different action in the justification. We have forwarded, Mr. Chairman, a deferment action.

Mr. DWYER. That was rejected by the Congress.

Mr. GUAGHAN. In conjunction with the 1987 submission, Mr. Chairman, we proposed a new deferral action, based on the changed relationship in the Federal program to the state academies.

Mr. DWYER. What I am trying to get straight in my mind if Congress has rejected a deferral, by what authority do you continue not to expend the money for which the money was appropriated? Because you anticipate asking for another deferral; it that your reasoning?

Mr. GAUGHAN. The deferral of the latest amount was based on the fact that the existing training vessel at the New York State Maritime School is adequate, and that the 1987 budget proposes discoutinuing all support for state maritime academies, including support for school ships.

ACQUISITION AND REFURBISHMENT OF A SHIP

Mr. DWYER. That is what you anticipate asking for in your 1987 budget. You also mentioned the fact about the size of the ship. A ship couldn't be acquired for that amount of money or couldn't be refurbished?

Mr. GAUGHAN. Based on our experience, Mr. Chairman, with replacement vessel for Massachusetts Maritime Academy, the costs involved were greater then the $8.5 million available.

Mr. DWYER. So the bottom line is that you are going to continue to defer it based on your anticipating your deferral in the 1987 budget. Is that what you are saying?

Mr. GAUGHAN. That is correct, Mr. Chairman.

NEW YORK SHIP

Mr. SMITH. With regard to the New York ship, what is the story? You were supposed to locate a sister ship to the one that you located for Massachusetts. What happened to that?

Mr. GAUGHAN. We issued a call worldwide for vessels that would meet various criteria that would be needed to satisfy New York State Academy's needs. We had responses from about 18 different vessels. The competition in contracting statute, my reading of it, sir, was that it did require competition. There was disagreement, quite frankly, between the New York State Academy and myself as to whether or not any of those 18 preliminary candidates would actually meet their needs. I have pending, sitting on my desk, a formal request for proposals that would go out to the world, should the Congress direct that that 8.5 in fact not be deferred.

Mr. SMITH. You had a difference of opinion. Did they say that similar ships did meet the requirements?

Mr. GAUGHAN. They indicated that one of the ships met the requirements, in their opinion.

Mr. SMITH. It is a sister ship to the Massachusetts?

Mr. GAUGHAN. That is correct.

Mr. SMITH. How much did it cost to refurbish the ship?

Mr. GAUGHAN. In the neighborhood of $23 million.

Mr. SMITH. This ship that they say met the requirements, is that a surplus ship?

Mr. GAUGHAN. At the present time it is not a surplus ship, I don't believe.

Mr. BOWMAN. My name is Dick Bowman, Associate Administrator for Maritime Aids.

That particular ship which is a sister ship which is a sister ship, is presently not being used. It is laid up.

Mr. SMITH. Not being used by who?

Mr. BOWMAN. By the operator and the owner.

Mr. GAUGHAN. Right, I do not own it at this point.

Mr. BOWMAN. It is privately owned.

DEFERRALS

Mr. SMITH. Tell me about the timetable on deferrals. What do you see as being the timetable on these deferrals, and why did you issue a deferral instead of a rescission?

Mr. GAUGHAN. Mr. Smith, if there may be someone with me who can answer that precisely. My basic understanding was that it was a deferral a second time, because it was for a different reason than the first time around. The nuances beyond that, sir, if I could, I would turn to Mr. Nottingham, my Budget Director.

Mr. NOTTINGHAM. I am Mason Nottingham, Budget Director.

Basically, sir, I believe the reason for the deferral was simply to offset 1987 appropriations. It was an OMB decision. I am not sure of the full thinking behind it.

Mr. SMITH. To offset 1987 costs?

Mr. NOTTINGHAM. Appropriation requirements, yes, sir. Our appropriation request from you would have been $8,500,000 higher if we had rescinded the funds in the current year.

Mr. SMITH. You mean if you deferred them. If you rescinded them, your base would be $8.5 million lower.

Mr. NOTTINGHAM. Depending on the concept base. In any event, if we had rescinded it, we would have requested a higher amount in 1987. The effect would have been the same.

Mr. SMITH. How long do you see it taking to handle a deferral, in the event that Congress wants to turn it down?

Mr. NOTTINGHAM. If Congress were to turn down the deferral, we would of course immediately act on the instructions of Congress.

Mr. SMITH. The deferral requires signature?

Mr. NOTTINGHAM. The President either has or will submit the deferral request to Congress. I believe that document has been forwarded.

Mr. SMITH. In any event, the deferral, if it were to pass and be signed, would require a substantial amount of time. We are into February now. If nothing is done until June we will say, we will be over halfway through the fiscal year. That wouldn't make a lot of difference. In the case of your other deferrals, you have affected your own annual budget, haven't you?

Mr. Nottingham. Well, sir, it is my understanding generally of the deferral process that the deferral takes place until and unless Congress turns it down, and so I think the timing comes from that. I believe the timing would depend on congressional action.

EMPIRE STATE

Mr. Gaughan. Mr. Smith, if I might add here, the Empire State, the existing vessel, it is our view that first of all it is adequate to meet the New York State Academy's needs, and in that respect, I issued recently a request for proposals for an estimated $1.2 million in work having to do with its maintenance and repair habitability to insure that it met all Coast Guard and ABS safety requirements prior to its 1987 cruise.

Mr. Dwyer. Would that bring it up to requirements?

Mr. Gaughan. Yes, it will, and we have been annually funding the drydocking and those types of things. It is an older vessel. There is no doubt about that, but we have certainly set aside funds to meet those costs, so that not only that state academy but all state academy vessels would meet Coast Guard-ABS standards for the 1987 cruise season.

Mr. Smith. That is all.

[Questions for the record and the answers thereto follow:]

Questions submitted by Mr. Smith

Deferral of 1986 Funds

Question: What is the basis for deferring $9,350,000 into 1987. What is your authority to continue proposing deferrals which Congress has already rejected?

Answer: The Congress rejected the 1986 deferral on the basis that there would be a continuing requirement for a replacement ship in support of a continuing training program. This premise has changed significantly due to the Administration's discontinuance of direct financial support for this program including maintenance and repair of training ships. If the Congress does not restore this program, the New York State school may not request continued use of a ship. If this is the case, purchase of a ship that has no current use or value to the Federal Government would be a waste of funds.

The authority for a second deferral is based on the fact that this deferral is for an entirely different reason; i.e., discontinuance of Federal support for the State Marine Schools.

T/S PATRIOT STATE

Question: In 1985, the Administration proposed a rescission of $888,000. This was turned down by the Congress and the Maritime Administration was directed to use these funds to put additional work in place on the T/S PATRIOT STATE. What is the current status of these funds?

Answer: These funds are currently set aside pending submission of a deferral to the Congress. The additional work on PATRIOT STATE, with the exception of the navigation lab, will not be required if this ship will not be used after 1986. The Government proposes to discontinue direct federal support to the State marine schools including ship training maintenance and repair after 1987 and it is not known if the Massachusetts Maritime Academy will request continued use of the ship at no expense to the Federal government. If the school does not request the use of the ship, it will be withdrawn and laid up and further expenditure in 1986 would be a waste of funds. The one exception is the navigation lab which is required for the 1986 training voyage. This work will be put in place using regular training ship maintenance and repair funds.

Ocean Freight-differential Subsidies Appropriation Language

Question: You have proposed appropriation language that would prohibit any funds being made available to the Secretary of Transportation to issue obligations to the Secretary of Treasury, pursuant to sections 901(b) and 901(d) of the Merchant Marine Act of 1936 as amended. Isn't this program mandatory? When does it begin? What will be your course of action should Congress not enact the proposed Ocean Freight-differential appropriations or repeal legislation?

Answer: The program is mandatory barring enactment of appropriations language which would trigger a nonavailability of funds message to the Congress pursuant to Section 901(e) of the Act, or repeal legislation as proposed by the Administration. The 1985 Farm Bill has defined the program as commencing with a "calendar year" beginning April 1, 1986. The Administration will begin the program on that date unless legislation or appropriations language to the contrary is enacted.

OFDS-Borrowing Authority

Question: The budget justifications are imprecise to the construction of the $48,000,000 borrowing authority estimate for fiscal year 1986 and the $120,000,000 borrowing authority estimate for fiscal year 1987 should the repeal of this act not be enacted. Please detail for the record the components of each of these two years estimates as to how that payments would be made to for what purposes and what the outlay effects would be, including what budget authority mechanisms might be employed to repay the borrowing authority provided.

Answer: The components of the estimate are as follows:

	FY 1986	FY 1987
Ocean Freight Differ. for added export shares (10%, 20%)	$18,500	$53,700
Excess freight costs (freight costs exceed 20% of commodity plus freight costs)...........	29,500	66,300
Budget appendix estimates...	48,000	120,000

It should be noted that these estimates were established after enactment of the Farm Bill late in the 1987 budget preparation and are subject to change. This process is still underway. The second component, cost of the 20 percent excess, is especially variable and complex according to such factors as volume and price of commodities exported. If final calculations indicate amounts continue to be due, this item will simply be a cost funded at the Maritime Administration in lieu of the Departments of Agriculture and State (AID) and is thus not an added cargo preference cost to the Government.

It is contemplated that the amounts which accrue for any year would be borrowed from the Department of Treasury by the

Department of Transportation and paid to the Departments of Agriculture and State (AID). The mechanism to repay borrowing authority would depend on appropriations language enacted.

Deferral of 1986 Funds

Question: The budget request for Operations and Training reflects a decrease of $13,360,000 from the adjusted appropriation for 1986. This reduction in new budget authority is a net figure in which $9,250,000 from prior year balances deferred will be used to substitute in 1987 for new budget authority. If this deferral is overturned, do you plan to submit a budget request that would provide for the balance of your requested activities for fiscal year 1987?

Answer: The Administration request is for a $62,693,000 program financed from new budget authority and a deferral of 1986 funds. If the deferral is denied, then the Administration requests an adjustment for the full amount of $62,693,000 in new budget authority. The deferral results from termination of the State marine school program in 1987 and should be denied only if this program is restored. However, continuation of this program would require restoration of the deferred funds to finance other programs.

State Marine School Program

Question: You are planning to eliminate support for the State Marine Schools on the basis that there is an oversupply of Merchant Marine officers currently. Please provide a detailed justification for this initiative.

Answer: The basic reason for withdrawing Federal financial support of the State marine schools is that the output of the schools is far in excess of the needs of the U.S.-flag Merchant Marine and of the needs of the Government. There is a projected need for about 500 new merchant marine officers annually, and about 1,200 are currently being supplied from all sources. About 300 enter the work force from sources in which the Government is not involved and cannot control, and an additional 200 graduate from the Merchant Marine Academy which is completely under the control of the Government. These two sources would meet the annual requirement for about 500 new officers. However, the State marine schools graduate about 700 new officers annually which is numerically far in excess of the needs of the Government and the industry and this output is not controllable by the Government.

Further, only a very small number of State marine school students are graduating with a Federal service obligation or Naval Reserve commission further lessening the value of the State marine school program.

Questions Submitted by Mr. Early

Training Ship T/S PATRIOT STATE

Question: Would you please give us an update on the status of the PATRIOT STATE? (a) Was the Phase II conversion work completed in July 1985 as originally-projected? Where is the ship at present? (b) The Phase II conversion contract was originally awarded to Bender Shipbuilding and Repair Company, Inc. for $5,643,778. Later the current total was $5,752,077. What was the final total?

Answer: The Phase II work has been completed at a final cost of $8,533,778, and the ship has been delivered to and accepted by the Massachusetts Maritime Academy. The ship is currently located at the school and additional work is being put in place to have it ready for its first training voyage currently scheduled to commence on April 17, 1986.

Question: I believe H.R. 2577, the 1985 Supplemental Appropriations Bill, earmarked $888,000 for additional but necessary conversions, and renovations of the PATRIOT STATE. Priority items included: the installation of stair towers in the #4 hold area; providing for ventilation, heating and air conditioning in the #4 hold area in order to meet U.S. Coast Guard requirements for using these areas; providing necessary subminimal classroom space; providing for a much needed multi-use navigational laboratory; and providing for a crane on the fore deck.

(a) What is the status of these conversion projects? Has all the money that was provided been spent? Were additional funds needed?

(b) Were there any necessary conversions that you were not able to make due to lack of available funds?

(c) Were these conversions completed in Mobile, Alabama?

(d) Are you satisfied that all necessary conversions and renovations have been made and that the ship is an adequate and safe training vessel? Is the Massachusetts Maritime Academy satisfied?

(e) Was there enough conversion money left to include a training bridge as part of the package?

(f) As you know, one unexpected conversion problem that was not anticipated was the fact that the cargo holds of the ship were insulated with a polystyrene foam insulation, which would generate toxic fumes if there were a fire. Has this problem been adequately taken care of?

Answer: In 1985, the Administration proposed a rescission of $888,000. This was denied by The Supplemental Appropriations Act, 1985 (P.L. 99-88) and the Maritime Administration was directed to use these funds to put additional work described in the Conference Report on this Act in place on the T/S PATRIOT STATE. The report stated that the Maritime Administration was to provide access to and bring number four hold up to Coast Guard requirements so that it may be utilized to provide subminimal classroom space and a multi-use navigational laboratory, and to provide a crane for the foredeck hold.

The Maritime Administration immediately initiated coordination with the Massachusetts Maritime Academy and commenced work to develop the design and contract specifications required to comply with the Congress' direction. However, agreement was not reached with the Academy in sufficient time as to specifics and design work, with the exception of the navigation lab, and work could not be completed for hold #4 to meet the scheduled training voyage. Agreement was reached that the navigation lab would be located in the bridge area rather than in number four hold and work on this project will be completed prior to the training voyage.

The Government will discontinue direct federal financial support to the State marine schools including training maintenance and repair in 1987 and it is not known if the Massachusetts Maritime Academy will request continued use of the ship at no expense to the Federal government. If the school does not request the use of the ship, it will be withdrawn and laid up and further expenditure in 1986 would be a waste of funds. The additional work on PATRIOT STATE, with the exception of the navigation lab, will not be required if this ship will not be used in 1987.

The navigation lab is required for the 1986 training voyage and this work will be put in place using regular training ship maintenance and repair funds while the ship is alongside at the Academy.

The $888,000 is currently set aside and a deferral will be submitted to the Congress proposing that these funds be carried over to 1987 and used for costs associated with discontinuance of the State school program.

The PATRIOT STATE will meet certification requirements of the Coast Guard and will meet classification requirements of the American Bureau of Shipping and is therefore considered to be a safe ship. The ship is also considered to be adequate for training purposes.

The polystyrene foam insulation has been removed and replaced only in those areas that will be used for cadet living spaces.

MONDAY, FEBRUARY 24, 1986.

BOARD FOR INTERNATIONAL BROADCASTING

WITNESSES

MALCOLM S. FORBES, JR., CHAIRMAN, BIB

BEN J. WATTENBERG, VICE CHAIRMAN, BIB

ANGELO MANGINELLI, ACTING EXECUTIVE DIRECTOR, BIB

ERNEST EUGENE PELL, PRESIDENT, RADIO FREE EUROPE/RADIO LIBERTY

HUGH FALLIS, VICE PRESIDENT, RFE/RL

WILLIAM A. BUELL, VICE PRESIDENT, RFE/RL

MICHAEL R. MARCHETTI, TREASURER AND COMPTROLLER, RFE/RL

Mr. DWYER. This afternoon we will begin with the Board for International Broadcasting. Here to testify is its new Chairman. We welcome you, Malcolm Forbes, Jr., from the great State of New Jersey, and the President of Radio Free Europe, and Radio Liberty, Mr. Eugene Pell.

At this point we will insert the justifications into the record.

[The justifications follow:]

Mr. **Dwyer**. You gentlemen may proceed at your own pace.

Mr. **Forbes**. Thank you very much, Mr. Chairman. I am submitting my statement for the record, if that is satisfactory to you, but I would like to take a couple of minutes to emphasize a few vital key points. The request submitted today includes a supplemental for the current fiscal year, that is, 1986. With some painful pruning, we are meeting the Gramm-Rudman-Hollings targets. However, the fall of the dollar against the European currencies we must spend, principally the West German mark, is having a devastating impact on us.

As you know, Mr. Chairman, an equalization funding mechanism was established in the late 1970s when a falling dollar put us into a similar situation. With the dollar rising in the early 1980s, we either returned the windfall to the treasury or were authorized by supplemental to use it to meet requested budget levels. Now once again we are on the down side.

We are budgeted at a deutschmark rate of 3.08. The rate today is down to 2.29. We cannot make up the difference by RIFing or furloughing, because of union contracts, which make it more expensive to separate staff than to keep them on the payroll in any given year.

Let me just give you one example, Mr. Chairman. If we were to lay off the people who have had two years or less of service with the Radios, they come to 137 people, make up 8 to 10 percent of our payroll, the total savings, net savings of laying off almost 10 percent of our payroll, that is people with two years of experience or less, would save us only $75,000 in fiscal 1986.

Seventy percent of our operational expenses are in personnel costs. Without a supplemental, we would have to turn to controllable expenses, which now make up only 10 percent of our budget today, such as electric power, telephones, teletype and contract security guards.

As a matter of fact, if the present trend continues, our radios could literally run out of cash sometime in August. The reason why we are so vulnerable to these currency fluctuations, is because about 80 percent, approximately 80 percent of our budget, is spent in foreign currencies. Sixty-seven percent of the budget is spent in West Germany, using deutschmarks. The other 13 percent, roughly 13 percent, is in Spain and in Portugal.

The fiscal 1987 budget request looks like a much bigger increase than it really is. With the inflationary factors wrung out of it, and setting aside the amounts we are requesting for transmitter modernization, it is truly a stand-pat budget which does no more than to permit us to continue current operational requirements.

Mr. **Dwyer**. Thank you, Mr. Forbes.

You are requesting a supplemental of $14,500,000?

Mr. **Forbes**. Yes, sir.

Mr. **Dwyer**. And our notes seem to indicated you had pegged the German mark at 2.45 at the time of the request. What is it at now?

Mr. **Forbes**. Today it went down to 2.29.

Mr. **Dwyer**. Where do you anticipate it going?

Mr. **Forbes**. That is a good question. I wish I could control Mr. Volcker and Mr. Baker, but we can't. Until there is an indication from them that there is going to be a floor, no trader is going to risk much money in going against the market, so it could go down to 2.20 or 2.10 before the market turns on its own. Right now the statements that are coming are not encouraging to providing that floor.

Until there is a statement like you had with the Group of Five last September, when they said we want to bring it down, we use resources to bring it down, that was a signal to the market that the dollar would come down, and by golly, it has. But with the statements coming from the Treasury Department saying, gee, we would like a little more, Mr. Volcker is harumphing that perhaps it shouldn't be so much more, the markets are uncertain.

Right now with the rates at just 2.32, the loss for this fiscal year is already at $19 million. The $14 million, as pointed out, was at a 2.45 level. We have already lost for these two weeks another $5 million just for this fiscal year.

Mr. DWYER. What is your preference? Where do you want to see the rate go?

Mr. FORBES. As chairman of the BIB, I think 2.45 or 2.50 would be a splendid rate right now.

Mr. DWYER. Put the other hat on.

Mr. FORBES. Actually, I think, seriously, a rate between 2.35 and 2.50 is eminently fair. You could peg it in there.

Mr. DWYER. How will it get to that point by itself? It probably won't take too much intervention, will it, by the Group of Five?

Mr. FORBES. I wouldn't think so. If the markets know that there are going to be big resources thrown on it, and the fundamentals are sound, which I still think they are, they could do it. Just as everyone was surprised at how easy it was in retrospect to bring the dollar down from September when it seemed invulnerable, I think you would see the opposite effect today, if the policymakers made it clear what they wanted.

Mr. DWYER. Are these same estimates also assumed by other intenational agencies such as USIA and the Department of State, to your knowledge?

Mr. FORBES. I don't know. I would imagine that OMB would use the same rates for them as they used for us.

Mr. DWYER. Do you have any cushion built in at all?

Mr. FORBES. No. We had about $3.4 million in this stabilization fund, equalization funding mechanism, and that went in the first quarter of the fiscal year. We have run through that, that $3.4 million.

Mr. DWYER. I wonder if you might spell out that horror story just a little bit more on what will happen if we don't give you the supplement.

Mr. FORBES. I think President Pell could probably give those to you more graphically, since he is grappling with it day to day. But I don't think it is an exaggeration to say that because of the way German labor laws work, and the way our union contracts go in that country, we would almost literally have to shut down operations in August, because of this currency shortfall.

Mr. PELL. Mr. Chairman, coming from Kentucky, I am reminded of Joe B. Hall's comment when asked about his Wildcats' loss to Georgetown, and how he took it. He said, "No problem at all; I slept like a baby last night. I woke up every thirty minutes and cried." That is about the same position we are going to be in, I am afraid.

As the chairman has pointed out, this is an operation that has a very, very high percentage of fixed costs associated with it. There is very little slack in there. I can certainly testify to that by virtue of having just gone through the process of cutting the required Gramm-Rudman-Hollings 4.3 percent out of it. We have done a number of analyses that have looked at what would happen in terms of reducing power, reducing hours of broadcasts, and reducing personnel. But the German labor laws, I have discovered in the three months I have been in this job in Munich, are very restrictive in terms of what they impose upon us, and the union contracts are very rigidly and rigorously enforced by the courts.

There is not much slack. There is very little give.

Mr. DWYER. Laying off a large group of people is quite a chore under those German laws, as I recollect, is it not?

Mr. PELL. Yes, sir. Any time you reach the number of 50 in terms of layoffs or terminations, you are required to submit a termination plan to the Bavarian state government, which in addition to those requirements imposed upon us in current contracts would require us to go beyond that, and present a comprehensive plan for retraining, absorbing social costs, etcetera, that a layoff of that size wuold impose upon the local marketplace.

TUESDAY, MARCH 25, 1986.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

WITNESSES

CHARLES Z. WICK, DIRECTOR

RICHARD W. CARLSON, ACTING ASSOCIATE DIRECTOR FOR VOICE OF AMERICA

MARK BLITZ, ASSOCIATE DIRECTOR FOR EDUCATIONAL AND CULTURAL AFFAIRS

WOODWARD KINGMAN, ASSOCIATE DIRECTOR FOR MANAGEMENT

CHARLES HORNER, ASSOCIATE DIRECTOR FOR PROGRAMS

ALVIN SNYDER, DIRECTOR, TELEVISION AND FILM SERVICE

ERNESTO F. BETANCOURT, DIRECTOR, RADIO MARTI PROGRAM

VICTOR H. LI, PRESIDENT, EAST-WEST CENTER, INC.

THOMAS E. HARVEY, GENERAL COUNSEL AND CONGRESSIONAL LIAISON

STANLEY M. SILVERMAN, AGENCY BUDGET OFFICER

MORTON SMITH, DEPUTY DIRECTOR, VOICE OF AMERICA (MODERNIZATION)

Mr. SMITH. This morning we will first consider the FY 1986 supplemental request for the USIA Salaries and Expenses account. The request is for $17,326,000. We shall insert the justifications at this point in the record.

[The justifications follow:]

Radio Free Europe/Radio Liberty: FY 1986 Supplemental Needs

FY 1986 authorization and appropriation legislations for B.I.B. grants to RFE/RL, Inc. were based on estimated exchange rates of 3.08 West German Marks, 160.16 Escudos and 171.80 Pesetas to the dollar. The sum of $101,603,000 was appropriated for regular operating expenses in FY 1986 at those rates. RFE/RL expends approximately 80 percent of grant funds in foreign currencies.

The Administration requests a FY 1986 supplemental appropriation of $14,500,000, which - together with the $3,395,000 available in the Currency Devaluation Fund - will protect RFE/RL from downward fluctuations in foreign currency exchange rates to 2.4595 West German Marks, 157.00 Escudos and 153.60 Pesetas to the Dollar. During the first four months of FY 1986, actual RFE/RL purchases were at an average exchange rate of DM 2.53 marks to the dollar. The following table provides a breakdown of RFE/RL foreign currency purchase requirements and demonstrates the need for a supplemental in order to maintain the authorized and appropriated level of operations for FY 1986.

The last supplemental appropriation granted RFE/RL for foreign currency losses was in FY 1980.

RFE/RL, INC.

Currency Devaluation Fund

FY 1986
(in thousands of dollars)

	Fund Balance
Currency Devaluation Fund Reserve - Balance as of September 30, 1985	$ 3,395

Foreign Currency Loss Projection based on the following rates:

Deutsche Mark	2.4595
Escudo	157.00
Peseta	153.60

	Currency DM	Requirements in Dollars Escudo	Peseta		Fund Balance
October 1985 - January 1986	21,658	2,043	1,1[illegible]	(Actual)	(1,356)
February	9,806	1,357	[illegible]		(3,957)
March	5,465	500	[illegible]		(5,382)
April	5,553	700	[illegible]		(6,856)
May	5,334	700	[illegible]		(8,263)
June	5,901	1,068	[illegible]		(9,820)
July	5,700	600	[illegible]		(11,306)
August	5,436	700	857		(12,792)
September	6,097	1,450	1,3[illegible]		(14,500)
Totals	70,950	9,118	6,05[illegible]		

Projected Net Loss $ 14,500

UNITED STATES INFORMATION AGENCY

FISCAL YEAR 1986 SUPPLEMENTAL ESTIMATES

TO IMPLEMENT THE U.S./USSR CULTURAL ACCORDS SIGNED IN GENEVA ON NOVEMBER 21, 1985, and

TO ESTABLISH A TELEVISION STATION FOR RADIO IN THE AMERICAN SECTOR (RIAS), BERLIN

UNITED STATES INFORMATION AGENCY

FISCAL YEAR 1986 SUPPLEMENTAL ESTIMATES
SALARIES AND EXPENSES APPROPRIATION

General Statement

Two program initiatives are considered so significant by this Administration that we are seeking supplemental funding of $17,326,000 in 1986 to accomplish them as follows:

I. Support for the U.S./USSR Cultural Accords, $5,326,000. The President has made an official and a personal commitment to the process of broadly expanding a constructive dialogue with the USSR. USIA's carefully conceived information and cultural exchange programs are an integral part of the Administration's comprehensive foreign policy toward the Soviet Union. Progress in such crucial areas as arms control, human rights and regional conflicts may depend in large part on reducing suspicions and improving understanding between our governments and peoples. The new U.S.-USSR General Exchanges Agreement signed in Geneva on November 21 by the Secretary of State (the first such Agreement in six years) calls for a resumption of a wide variety of exchanges -- performing arts, thematic exhibitions, academic, professional exchange of persons. These exchange programs, administered by USIA, are the U.S. Government's best means of enhancing understanding of American institutions, values and society in the Soviet Union while instilling a greater sense of mutual trust. The joint communique issued at the Geneva Summit by President Reagan and General Secretary Gorbachev also calls for the opening of an American consulate in Kiev and a Soviet consulate in New York.

II. Establishment of a Companion Television Station for Radio in the American Sector, Berlin (TV-RIAS), $12,000,000. This is a one-time opportunity to establish the capability to communicate by television with audiences in both East and West Berlin and the German Democratic Republic, with all the immediacy and impact provided by that medium, especially for viewers from the successor generation. RIAS-TV terrestrial broadcasts would reach a potential audience of 3 million East Germans, as well as 2 million in West Berlin, with in-depth information about the U.S. as well as about Berlin and the unique U.S. role there. Inclusion of the RIAS-TV signal in the West German cable network would make it available to over 2 million households.

The funding and staffing resources required for these two initiatives are summarized below. Further justification and details are presented in the following pages.

UNITED STATES INFORMATION AGENCY

FISCAL YEAR 1981 SUPPLEMENTAL ESTIMATE
SALARIES AND EXPENSES APPROPRIATION

SUMMARY OF REQUIREMENTS

[illegible]

FISCAL YEAR [illegible] SUPPLEMENTAL ESTIMATES

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

FISCAL YEAR 1986 SUPPLEMENTAL ESTIMATES

1. Support for the U.S./USSR Cultural Accords, Continued

life, and they will speak candidly about how the communication and information revolution is affecting their own lives. The exhibition will be accompanied by specialists and technicians and an administrative staff in each city where shown. Collateral activities will include lectures and seminars, special film showings, and possibly teleconferences to bring together American and Soviet experts on topics related to the exhibit theme. Each visitor to the exhibition will receive a 34-page full-color brochure, to read and share with others, and to keep in his personal library, extending the message of the exhibition for many years to come.

It has been more than seven years since the last U.S. cultural exchange exhibition was shown in the U.S.S.R. Over the years, the itinerant USIA exhibits program has proven to be the most effective means of communicating with the average Soviet citizen from the cosmopolitan centers of Moscow and Leningrad, to such far-off cities as Novosibirsk and Alma Ata. The exhibit aspect of the cultural exchange agreement continues to hold the highest priority in the program.

The 1986 funding request of $3,961,511 provides for development and production costs such as research, design, brochure writing and design, production of a special 70mm film, guide recruitment, travel related to preparing the exhibit, domestic shipping, procurement and miscellaneous A/V production, and ten new domestic positions to administer the exhibit programs. Additional funds will be required in 1987 and 1988 to provide for fabrication of the exhibit, construction of the film theatre, partial brochure printing, guide and staff travel and salaries, international shipping, shipping between sites, brochure printing, guide and staff travel, salaries and operational costs for nine city showings.

2. Arts America Program ($1,068,487, 3 Positions).

The U.S.-Soviet Program of Exchanges, signed at Geneva in November 1985, provides for the exchange of "at least" two major performing arts groups and ten individual artists over the three-year period of the Program.

The U.S. intends to use the opportunities provided by the general exchanges agreement to build positive public attitudes toward the United States in the Soviet Union. To achieve this impact with the performing arts requires that we represent the finest and most creative of the American performing arts.

The FY 1986 supplemental request of $1,068,487 will fund programs for two performing groups and two individual artists this year, including three new domestic positions to administer the programs. In FY 1987 and FY 1988, the final two years of the agreement, four groups and four individuals will travel to the USSR. The agreement calls for reciprocal activities here in the United States by the Soviets.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

FISCAL YEAR 1986 SUPPLEMENTAL ESTIMATES

II. Establishment of a Television Station for Radio in the American Sector (TV-RIAS), Berlin ($12,000,000)

A. [illegible] Program -- RIAS-TV would be a modern, vital component of Radio in the American Sector, a U.S.-German cooperative effort which remains a proven instrument of public diplomacy in Central Europe after almost four decades. The [illegible] favorable attention that was given recently to RIAS's 40th Anniversary in Berlin and the FRG was eloquent testimony to the stature which this institution has achieved. RIAS television would enable this time-tested institution to continue to reach a public that increasingly turns to television for information and entertainment, with all the immediacy and impact that the visual medium provides. It would be particularly effective in reaching young people, the generation that has grown up in the television era.

RIAS-TV would [illegible] objective news and analysis, as well as programs that accurately report on life, culture, and institutions in the U.S., the FRG, and other countries of the Western Alliance. Its primary audience would be in East Germany, although it would also be seen in West Berlin and parts of the FRG. Beyond its immediate objective of disseminating information, RIAS-TV would send a strong and unequivocal signal of our commitment to the viability of the [illegible] city of Berlin, which celebrates its 750th anniversary in 1987, the year we hope to begin broadcasting. Equally important, it would show our determination to continue to play a constructive role in promoting stability, peace, and the free flow of ideas in Central Europe.

RIAS-TV would [illegible] RIAS radio. Plant, equipment, and transmission costs would be an American responsibility, while the FRG would pay [illegible] expenses on a continuing basis. Cost estimates for these respective [illegible] are set forth below.

[illegible] would have "[illegible]" [illegible], in accordance with the status of the city of Berlin. The American Director [illegible], would be responsible for operations, in coordination with a counterpart German [illegible]. Formation of a [illegible] "Advisory Council" is under consideration. This [illegible] programming.

RIAS-TV would [illegible] transmitter in West Berlin with an effective radiated power of 40-60 KW. This [illegible], covering all of East and West Berlin, as well as several population centers [illegible] would cover approximately [illegible] million people, 2 million in West Berlin [illegible].

[illegible] the RIAS-TV signal to be fed into the cable network in the FRG. By [illegible] million households will have cable connections. For viewers in West Germany, RIAS would be [illegible] life in the dynamic city and the role which the U.S. plays there. It would [illegible] strengthening ties between Berlin and the Federal Republic, as well as offering [illegible] information on American life and culture which is being shown to East Germans and West Berliners.

FISCAL YEAR 1986 SUPPLEMENTAL ESTIMATES

II. Establishment of a Television Station for Radio in the American Sector (TV-RIAS), Berlin, Continued

The goal of RIAS-TV would be to provide the kind of accurate unbiased electronic journalism for which RIAS radio has built a reputation in the past forty years. For East Germans, accurate information on the U.S. is especially important, since GDR media offer a tendentious and distorted view of American society.

West German television covers the entire area--in East and West--where RIAS would be seen, but RIAS-TV would be an invaluable complement to present programming. It would present America more objectively and in depth: coverage of the American scene would have a broader focus than the major events in Washington and New York; programs in the social and cultural field would go far beyond the cliches of pure entertainment such as "Dallas." In-depth reporting and commentary on RIAS-TV, as well as features on arts and society, would be a vital adjunct to what is available now to East Germans, as well as to interested viewers in West Berlin and--if the RIAS signal is fed into the FRG cable system--West Germany.

Innovative programming steps are contemplated. For example, there is now no morning television in Germany, and a show along the lines of "Good Morning America" has excellent prospects for viewer success, with a combination of news, interviews, and informative short features. All programming would be in German. While RIAS-TV could take items from the WORLDNET feed or otherwise draw upon USIA-TV for program resources, the station would make its own program decisions.

USIA's need for start-up costs and one-time capital expenditures on plant and equipment is estimated at $12 million. This estimate is based on an extensive feasibility study completed in the summer of 1984 by an independent German media consultant and updated in December 1985, as well as an inspection by an American TV expert in October 1985.

The Germans have tentatively offered to make space available in the existing Berlin Congress Hall, a well-known Berlin building that was donated to the city through private American contributions in the post-war period. The space is ideally suited to the station's needs. While the USG would pay for renovations (included in the $12 million cited above), there would be no rental charge for the Congress Hall studio and office space.

Transmission costs would be borne on an ongoing basis by the USG in order to maintain the status of the station as an "American broadcaster." Costs for transmitter operations are estimated at approximately $1.2 million in Fiscal Year 1987, based on a projected start of July, 1987.

According to our studies, station operations would cost $17-27 million per year. The German Government has offered to pay this cost, as it now pays RIAS Radio operating costs.

Mr. SMITH. We shall insert your prepared statement in the record at this point and proceed to questions.

[The prepared statement follows:]

FISCAL YEAR 1986 SUPPLEMENTAL ESTIMATES

General Statement

The President has made an official and a personal commitment to the process of broadly expanding a constructive dialogue with the USSR. USIA's carefully conceived information and cultural exchange programs are an integral part of the Administration's comprehensive foreign policy toward the Soviet Union. Progress in such crucial areas as arms control, human rights and regional conflicts may depend in large part on reducing suspicions and improving understanding between our governments and peoples. The new U.S.-USSR General Exchanges Agreement signed in Geneva on November 21 by the Secretary of State (the first such Agreement in six years) calls for a resumption of a wide variety of exchanges -- cultural, academic, professional. These exchange programs, administered by USIA, are the U.S. Government's best means of enhancing understanding of American institutions, values and society in the Soviet Union while instilling a greater sense of mutual trust. The joint communique issued at the Geneva Summit by President Reagan and General Secretary Gorbachev also calls for the opening of an American consulate in Kiev and a Soviet consulate in New York.

In addition to the resources required to carry out the programs evolving from the Exchanges Agreement and two American positions to staff the Press and Cultural Section at the new consulate in Kiev, we are requesting two other positions related to enhanced program opportunities with the Soviet Union. One position would be used to reestablish the Assistant Information/Exhibits Officer in Moscow, which was abolished several years ago when the previous exchange agreement lapsed, to handle the traveling thematic USG exhibitions in the Soviet Union. The other position would be used to establish an assistant to the USSR Country Affairs Officer in Washington.

RIAS-TV would be a modern, vital component of Radio in the American Sector, a U.S.-German cooperative effort which remains a proven implement of public diplomacy in Central Europe after almost four decades. The wide and favorable attention that was given recently to RIAS's 40th anniversary in Berlin and the FRG was eloquent testimony to the stature which this institution has achieved. RIAS television would enable this time-tested station to continue to reach a public that increasingly turns to television for information and entertainment, with all the immediacy and impact that the visual medium provides. It would be particularly effective in reaching young people, the generation that has grown up in the television era.

RIAS-TV would broadcast objective news and analysis, as well as programs that accurately report on life, culture, and institutions in the U.S., the FRG, and other countries of the western Alliance. Its primary audience would be in East Germany, although it would also be seen in West Berlin and parts of the FRG. Beyond its immediate objective of disseminating information, RIAS-TV would be a strong and unequivocal signal of our commitment to the viability of the divided city of Berlin, which celebrates its 750th anniversary in 1987, the year we hope to begin broadcasting. Equally important, it would show our determination to continue to play a constructive role in promoting stability, peace, and the free flow of ideas in Central Europe.

Kiev Consulate Press and Culture Program

The closed nature of Soviet society has discouraged Americans from traveling to and learning about various regions of the Soviet Union, with their distinct nationalities, separate languages and cultural histories. It has always been tremendously difficult for our Foreign Service officers to obtain contacts outside of the capital.

in Moscow and the Consulate General in Leningrad. The President's expressed foreign policy goal of expanding contacts with all the peoples of the Soviet Union necessitates a USIA presence in Kiev, which is the capital of the Ukrainian Republic, the second most populous republic and the third largest city, located in a region of great historic and cultural importance. It is vital that funding be authorized without delay to enable us to establish a presence and programs in this region of crucial importance. The Soviets would welcome any USG self-imposed reduction in our programs which aim at communicating American political and cultural values to a people who would otherwise only receive limited and controlled information about our country.

Additional Staffing to Manage Expanded Exchange Program

In the last 25 years, a formal exchange agreement with the Soviet Union has been the rule and not the exception. Programs under official USG sponsorship began in 1958 and lasted until the end of 1979. When the Soviet Union invaded Afghanistan in December 1979, the exchanges agreement was allowed to lapse and the staff of P&C Moscow and EU was trimmed. Now that a new exchanges agreement is in force, EU is seeking to re-establish the positions of Assistant Information Officer for Exhibits in Moscow and of

Deputy USSR country affairs officer in Washington. The AID would support USIA's traveling thematic exhibits. The exhibits, which include 24 Russian-speaking American guides, are the single most effective vehicle ever devised for the direct communication of information about life in America to the people of the Soviet Union. In Washington, the work of the USSR Country Affairs Officer has increased radically. Not only has the sheer volume of work increased across the board, but new functions have been added -- traveling in the U.S. to interview applicants for exhibit positions, extensive briefings of [illegible] and delegations traveling to the USSR, meetings with a greater number of Soviet visitors, increased contacts with representatives of the Embassy of the USSR -- which make it necessary to have two officers covering this critical desk.

RIAS-TV: A U.S.- GERMAN COOPERATIVE EFFORT

RIAS-TV would operate in a way analogous to RIAS radio: Plant, equipment, and transmission costs would be an American responsibility, while the FRG would pay operating expenses on a continuing basis. Cost estimates for these respective contributions are outlined below.

The USG would be "sovereign" over the station. In accordance with the status of the City of Berlin. The American Director and his Deputy, both USIA officers, would be responsible for operations, in coordination with a counterpart German Intendant, appointed by the American side. Formation of a binational "Advisory Council" is under consideration. This body, if created, could advise the Directorate regarding programming.

RIAS-TV would broadcast on UHF from a transmitter in West Berlin with an effective radiated power of 40-60 KW. This terrestrial signal would carry about 25 miles, covering all of East and West Berlin, as well as several population centers in the surrounding GDR. RIAS-TV direct broadcasts would reach approximately 5 million people, 2 million in West Berlin and 3 million in the East.

The FRG government has indicated its strong desire that the RIAS-TV signal be fed into the cable network in the FRG. By 1987, it is estimated that 2-3 million households will have cable connections. For viewers in West Germany, RIAS would be a voice of Berlin, exposing them to the life of the dynamic city and the role which the U.S. plays there. It would support FRG (and U.S.) policy of strengthening ties between Berlin and the Federal Republic, as well as offering interested West Germans the same in-depth information on American life and culture which is being shown to East Germans and West Berliners.

The goal of RIAS-TV would be to provide the kind of accurate unbiased electronic journalism for which RIAS radio has built a reputation in the past forty years. For East Germans, accurate information on the U.S. is especially important, since GDR media offer a tendentious and distorted view of American society.

West German television covers the entire area--in East and West--where RIAS would be seen, but RIAS-TV would be an invaluable complement to present programming. It would present America both objectively and in depth: coverage of the American scene would have a broader focus than the major events in Washington and New York; programs in the social and cultural field would go far beyond the cliches of pure entertainment such as "Dallas." In-depth reporting and commentary on RIAS-TV, as well as feature on arts and society, would be a vital adjunct to what is available now to East Germans, as well as to interested viewers in West Berlin and--if the RIAS signal is fed into the FRG cable system--West Germany.

Innovative programming steps are contemplated. For example, there is now no morning television in Germany, and a show along the lines of "Good Morning America" has excellent prospects for viewer success, with a combination of news, interviews, and informative short features. All programming would be in German. While RIAS-TV could take items from the WORLDNET feed or otherwise draw upon USIA-TV for program resources, the station would make its own program decisions.

USIA's need for start-up costs and one-time capital expenditure on plant and equipment is estimated at $12 million. This estimate is based on an extensive feasibility study completed in the summer of 1984 by an independent German media consultant and updated in December 1985, as well as an inspection by an American TV expert in October 1985.

The Germans have tentatively offered to make space available in the existing Berlin Congress Hall, a well-known Berlin building that was donated to the city through private American contributions in the post-war period. The space is ideally suited to the station's needs. While the USG would pay for renovation (included in the $12 million cited above), there would be no rental charge for the Congress Hall studio and office space.

Transmission costs would be borne on an ongoing basis by the USG in order to maintain the status of the station as an "American broadcaster." Costs for transmitter operations are estimated at approximately $1.2 million in Fiscal Year 1987, based on projected start of July, 1987.

According to our studies, station operations would cost $23-27 million per year. The German government has offered to pay this cost, as it now pays RIAS Radio operating costs.

SUPPLEMENTAL REQUEST FOR RIAS TV

Mr. SMITH. You mentioned the supplemental. When we marked up the supplemental, we were told that the supplemental bill as a whole was over the Gramm-Rudman ceiling and we just had to reduce something. The Members felt that $17 million item plus one other were the two things least important that we had. In other words, they ranked behind security for embassies and a few other things. Explain to us a little more about RIAS and why we should put the money there at this time.

Mr. WICK. RIAS is "Radio in the American Sector of Berlin." There are four sectors, as we all know, three under the jurisdiction of the U.S. and our allies and one of the Soviets. Radio in the American Sector celebrated its 40th anniversary in February of this year. It is a symbol of the American presence in Berlin, that flagship on the very border of the Eastern Europe confrontation that we face. A short time ago, we started RIAS II, a new radio channel for younger audiences, and it is the most popular radio station in Berlin.

The Federal Republic of Germany feels that the fact that Berlin is an island in the sea of the German Democratic Republic has been a vital factor and symbol in representing the Free World, and particularly the American presence, to the east. Even with their constrained budgets in the Federal Republic, the West German government, from Chancellor Kohl on down, has endorsed Mayor Diepgan of Berlin's proposal that he has related to some of the Members of Congress on a short trip here very recently. For a $12 million capital investment by the United States for the construction of the RIAS television station, the Federal Republic has committed to spend somewhere around $22 million or $23 million a year for the maintenance and the programming of the station which will be under United States control.

We feel there is a window of opportunity that may never come again. We know we are engaged in a war of ideas, and for us to be able to have this commanding presence of a television station that symbolizes the American presence is a great opportunity and most cost effective.

The only other cost to us would be approximately $1.5 million to $1.7 million per year for the maintenance of the station. The Federal Republic would also like to take the programming of RIAS TV in Berlin, and make it available via cable to the entire Federal Republic. Of course at that point in time we would negotiate with them as to what the extra cost would be.

Mr. SMITH. Who does the programming?

Mr. WICK. The day-to-day programming is the responsibility of the German manager, Peter Schiwy. Under a concept arrived at 40 years ago, where Radio in the American Sector is under American jurisdiction, this programming is overseen and ultimately the responsibility of an American director, William Marsh.

Mr. SMITH. We do all the programming?

Mr. WICK. Yes. They pay for it. It would be under our control, and of course we liaise with them as to what would be the most effective kind of program.

Mr. SMITH. And it costs how much a year?

Mr. Wick. It will cost us somewhere around $1.5 million to $1.7 million.

Mr. Smith. And how much would they put in?

Mr. Wick. They put in somewhere between $22 million to $23 million a year. They feel it is that important.

Mr. Smith. If they are going to put in $22 million compared to our $1.5 million, that is nearly all of it. Why don't they just put all of it in?

Mr. Wick. Well, there is a certain symbol of cost sharing that is important. The Federal Republic of Germany is a democracy, as is ours, and they have different political parties that have to arrive at a consensus on this. For them to put up 100 percent—and we have investigated that thoroughly—probably would not fly too well politically.

RIAS TV PROGRAMMING

Mr. Smith. What kind of programs do they have? I mean, do they have local news programs as well as music?

Mr. Wick. You mean what kind of programming would we have?

Mr. Smith. Yes.

Mr. Wick. Yes. We would have local news and programming. There is no breakfast show in Berlin today, and they particularly feel that RIAS TV, in several hours in the morning, could be very effective. Here is a note we have that is a little bit more organized than my response:

> Program content. The goal of RIAS TV would be to provide the kind of accurate unbiased electronic journalism for which RIAS Radio has built a reputation in the past 40 years. For East Germans, accurate information on the United States is especially important, since the GDR media offer a tendentious and distorted view of American society.
>
> West German television covers the entire area in East and West from Berlin, where RIAS-TV would be seen. But RIAS TV would be an invaluable complement to present programming. It would present America both objectively and in depth. Coverage of the American scene would have a broader focus than the major events in Washington and New York. Programs in the social and cultural field would go far beyond the cliches of pure entertainment such as "Dallas".
>
> In-depth reporting and commentary on RIAS TV as well as features on arts and society would be a vital adjunct to what is available now to East Germans as well as to interested viewers in West Berlin, and if the RIAS signal is fed into the Federal Republic cable system, then we would have an enormous multiplier impact.
>
> Finally, innovative programming steps are contemplated. For example, there is now no morning television in Germany, as I said, and shows along the lines of "Good Morning, America," and "The Today Show" has excellent prospects for viewer success, with the combination of news interviews and informative short features. All programming would be in German. While RIAS TV could take items from the WORLDNET feed or otherwise draw upon USIA TV for program resources, the station would make its own program decisions, and would be doing a great deal of its own programs.

Mr. Smith. Would you use German locals or Americans?

Mr. Wick. We would certainly use German locals, as we do for RIAS radio. All the various tapes we would have on American culture, American policy positions, would be broadcast in German.

Mr. Smith. You are talking about tapes, but I am talking about people.

Mr. Wick. No, we would use—well, we would use Germans, yes. That is what the $22-23 million would buy.

Mr. Smith. I see.

Mr. WICK. But the content would be in the same manner as our RIAS content is now, sharing ideas with the Germans but under our control. We do have a lot of priorities. But I hope there is some way this could be achieved, because it is a dramatic opportunity, if we agree that the war of ideas is a primary priority in the national security area.

Mr. SMITH. It is one of those things that is difficult this year in trying to trim the budget to stay within the maximums. Now this isn't a big item as far as money is concerned, but like the NED program on which we had a hearing yesterday, it is more difficult to justify why we are supporting a new TV station in another country than it is to justify some other things, you know. And so we need anything we can get for the record to help show why it is in our interests to do it.

[The following was provided for the record:]

RIAS-TV: PROJECT DESCRIPTION AND RATIONALE

RIAS-TV would be a modern, vital component of Radio in the American Sector, a U.S.-German cooperative effort which remains a proven implement of public diplomacy in Central Europe after almost four decades. The wide and favorable attention that was given recently to RIAS's 40th Anniversary in Berlin and the FRG was eloquent testimony to the stature which this institution has achieved. RIAS television would enable this time-tested station to continue to reach a public that increasingly turns to television for information and entertainment, with all the immediacy and impact that the visual medium provides. It would be particularly effective in reaching young people, the generation that has grown up in the television era.

RIAS-TV would broadcast objective news and analysis, as well as programs that accurately report on life, culture, and institutions in the U.S., the FRG, and other countries of the Western Alliance. Its primary audience would be in East Germany, although it would also be seen in West Berlin and parts of the FRG. Beyond its immediate objective of disseminating information, RIAS-TV would be a strong and unequivocal signal of our commitment to the viabilty of the divided city of Berlin, which celebrates its 750th anniversary in 1987, the year we hope to begin broadcasting. Equally important, it would show our determination to continue to play a constructive role in promoting stability, peace, and the free flow of ideas in Central Europe.

RIAS-TV would operate in a way analogous to RIAS radio. Plant, equipment, and transmission costs would be an American responsibility, while the FRG would pay operating expenses on a continuing basis. The USG would be "sovereign" over the station, in accordance with the status of the city of Berlin. The American Director and his Deputy, both USIA officers, would be responsible for operations, in coordination with a counterpart German Intendant, appointed by the American side. Formation of a binational "Advisory Council" is under consideration. This body, if created, could advise the Directorate regarding programming.

The German interest in establishing RIAS-TV presents us with an opportunity which may not come again. The governments in both Bonn and Berlin strongly favor the station, and the German funding commitment that we now have is crucial. Obviously, we cannot expect this generous offer to remain indefinitely. Our present leadership at RIAS is strong, and particularly capable of undertaking this innovative step into television. Further, this is a period of rapid change in the electronic media in Europe; cable networks are expanding, available channels are being filled, and broadcast technology is moving into new areas, including DBS. The establishment of RIAS-TV now will put us into a position to get in on the ground floor of new developments. Also, the 1987 750th anniversary will be a major celebration for Berlin. The establishment of a television station with an American flavor would not only be a highly visible demonstration of the relationship which has grown up between Berliners and Americans in the last four decades, a relationship that continues to be vital to U.S. interests in the entire region. RIAS-TV would also represent a continuing public diplomacy contribution to the continuation of this relationship.

RIAS-TV would broadcast initially on UHF from a transmitter in West Berlin with an effective radiated power of 40-60 KW. This terrestrial signal would carry about 25 miles, covering all of East and West Berlin, as well as several population centers in the surrounding GDR. RIAS-TV direct broadcasts would reach approximately 5 million people, 2 million in West Berlin and 3 million in the East.

The FRG government has indicated its strong desire that the RIAS-TV signal be fed into the cable network in the FRG. By 1987, it is estimated that 2-3 million households will have cable connections. This cable feed would vastly increase RIAS's potential audience. For viewers in West Germany, RIAS would be a voice of Berlin, exposing them to the life of the dynamic city and the role which the U.S. plays there. It would support FRG (and U.S.) policy of strengthening ties between Berlin and the Federal Republic, as well as offering interested West Germans the same in-depth information on American life and culture which is being shown to East Germans and West Berliners.

The goal of RIAS-TV would be to provide the kind of accurate unbiased electronic journalism for which RIAS radio has built a reputation in the past forty years. For East Germans, accurate information on the U.S. is especially important, since GDR media offer a tendentious and distorted view of American society.

West German television covers the entire area--in East and West--where RIAS would be seen, but RIAS-TV would be an invaluable complement to present programming. It would present America both objectively and in depth: coverage of the American scene would have a broader focus than the major events in Washington and New York; programs in the social and cultural field would go far beyond the cliches of pure entertainment such as "Dallas." In-depth reporting and commentary on RIAS-TV, as well as feature on arts and society, would be a vital adjunct to what is available now to East Germans, as well as to interested viewers in West Berlin and--if the RIAS signal is fed into the FRG cable system--the Federal Republic of Germany.

Innovative programming steps are contemplated. For example, there is now no morning television in Germany, and a show along the lines of "Good Morning America" has excellent prospects for viewer success, with a combination of news, interviews, and informative short features. All programming would be in German. While RIAS-TV could take items from the WORLDNET feed or otherwise draw upon USIA-TV for program resources, the station would make its own program decisions.

Mr. Wick. I appreciate that opportunity. Of course, referring to it as just a TV station in Berlin gives you the same negative image as talking about some nice little old lady, but not stating that it happens to be your mother.

Mr. Smith. Are we going to pay for all the construction?

Mr. Wick. Yes. We would pay $12 million for construction, and the Germans would pay indefinitely $22-23 million a year for the operation. It seems like a fabulously good deal to us, but one can certainly understand why they would have great opposition in funding the whole capital investment.

We would hope that the station could start broadcasting in conjunction with the 750th anniversary of the founding of Berlin in 1987. This is going to be a joint celebration, throwing a sharp focus on Free World values as against the totalitarian system that seems to confront us. May I have Stanley Silverman——

Mr. Silverman. Mr. Chairman, with regard to the funding of the capital costs, the reason we are picking up all the capital costs is because of the arrangements in Berlin, since the United States and the other nations are really in charge of Berlin in that respect. This would parallel the arrangement we had when the radio station was built, that the United States paid for the capital costs, and the Federal Republic pays for the operating costs except for the transmissions. That is why that example and that basic model was used again in constructing the television counterpart.

POTENTIAL INTERFERENCE WITH RIAS TV

Mr. Smith. Let me ask some more about RIAS. There is something else I forgot to ask. What about interference?

Mr. Wick. We don't anticipate any interference. The United States has the right under the four-party treaty in Berlin to use frequencies, in conjunction with the GDR and the others, so we don't anticipate any problem on jamming. It is very difficult to jam TV, and it would be illegal as far as jamming in that particular area. Of course, it is illegal in the Soviet Union pursuant to the treaties they have signed too, but that is not relevant.

Mr. Smith. It would be difficult to interfere with the receiving, wouldn't it?

Mr. Wick. You mean by broadcasting on the same frequency?

Mr. Smith. Well, no. I mean there are various ways you can interfere so that the picture isn't very good.

Mr. Wick. We don't anticipate that they would do that. It would be very simple to interfere with theirs.

Mr. Smith. We have a few more questions which we shall submit for the record and you can submit the answers.

[The questions and the responses follow:]

QUESTIONS SUBMITTED FOR THE RECORD BY MR. SMITH

FY 1986 SUPPLEMENTAL

QUESTION:

Would you also explain why there is almost a $4 million increase over the FY 1986 request?

ANSWER:

Most of the increase is due to the rapid rise in the value of the German Mark. In March, 1985 the Mark stood at 3.25 to the dollar, while our present calculation is based on a DM exchange rate of 2.25 to one dollar. The remainder of the increase is due to additional equipment, recommended in an updated feasibility study completed last November.

QUESTION:

You are requesting $5,326,000 to implement the US/USSR Cultural accords signed in November 1985. Does this represent the total cost associated with the implementation of the accords?

ANSWER:

No. The $5,326,000 would provide initial funding in 1986 to open an American Consulate in Kiev and to implement exhibit and cultural activities called for under the US/USSR exchange agreement.

The 1986 supplemental request includes $3,951,513 for development and production costs of the traveling exhibitions, such as research, design, brochures, production of a special 70mm film, guide recruitment, travel related to preparing the exhibit, domestic shipping, procurement and miscellaneous A/V Production activities and ten new domestic positions to administer the exhibit program. Additional funds will be required in 1987 and 1988 to provide for fabrication of the exhibit, construction of the film theatre, partial brochure printing, guide and staff travel, salaries and operational costs for showings in nine Soviet cities. The total costs, including a nine-city tour of twenty eight showing days for each city, over the three fiscal years will be $18,186,600.

The 1986 supplemental request also includes $1,068,487 and three domestic positions for the first individuals and performing groups to undertake tours to several cities in the Soviet Union. The 1987 request includes $1,679,407 to continue these performing art presentations, and a similar amount will be required in fiscal year 1988 to fulfill the remaining schedule.

The 1986 supplemental would also provide $296,300 to open a Press and Cultural Center in Kiev and to provide additional staffing to manage the expanded exchange programs. The annual costs of these increases in 1987 and 1988 would total about $470,000.

While no additional funding is requested in 1986 to expand educational exchanges with the USSR, an increase of $1,155,000 is requested in 1987 to enhance these programs as outlined below.

QUESTION:

Are any funds being requested under the Educational and Cultural Exchange programs for this item?

ANSWER:

No funds are requested in the 1986 supplemental for educational exchanges. However, the 1987 budget request includes an increase of $1,155,000 to expand exchange programs in support of the US/USSR cultural accords. This funding will be used to enhance Academic exchanges ($900,000), International Visitor exchanges ($100,000), and exchanges in the Private Sector Program ($155,000).

QUESTION:

Do the accords provide for an exchange of scholars? Also, are there equal provisions for the type of scholar, i.e., generally in the past the USSR has sent scientists while the U.S. has been limited to historians.

ANSWER:

The General Agreement on exchanges between the U.S. and the USSR provides for the exchange of, among others, graduate students, researchers, and lecturers. The Program of Cooperation and Exchanges for the period 1986-88 provides for the exchange annually from each side of at least 50 researchers and 15 lecturers, as well as 50 person-months under the exchange between the American Council of Learned Societies and the Soviet Academy of Sciences.

The Agreement commits the two sides to a "mutually beneficial exchange in the various fields of natural and technical sciences, the humanities, and the social sciences." With respect to lecturers specifically, the Agreement provides that "both sides will attempt to include four lecturers on the languages and literatures of the sending side."

QUESTION:

How much is your fiscal year 1987 budget request for these items?

ANSWER:

As indicated above, the 1987 request includes $470,000 for the new post in Kiev and related staff increases, $7,081,170 for the exhibit showings, $1,679,407 for performing groups and individual performers, and $1,155,000 for educational exchanges.

QUESTION:

If the Congress should not approve your FY 1986 supplemental to begin these projects but should approve your going ahead with them in fiscal year 1987, are the amounts included in the FY 1987 budget sufficient to initiate these projects?

ANSWER:

No, they are not. For the exhibit showings, the amounts included in the FY 1986 supplemental are for different types of expenses and will permit accomplishment of programming over a three year period in accordance with an established schedule. The FY 1986 funding will provide for development and production costs, such as exhibit research, design, brochures, production of a special 70mm film, guide recruitment, travel related to preparing the exhibit, domestic shipping, procurement and miscellaneous A/V Production. The 1987 funding level provides for fabrication of the exhibit, construction of the film theatre, partial printing of brochures, guide and staff travel and salaries, international shipping and operation costs for the first three city showings.

If we began these projects in fiscal year 1987 rather than in fiscal year 1986, an additional $3,300,000 would be required in 1987. Such a delay would also make it impossible for us to accomplish the nine-city tour allowed in the exchange agreement which expires on December 31, 1988.

In the case of the Arts America Program, the FY 1986 supplemental will provide for about 20 percent of the programs stipulated in the agreement, which involves ten performing groups and ten individuals over a three year period. The FY 1987 request includes funds for about 40 percent of the scheduled programs. Failure to get the program started in FY 1986 would call for a severely compressed schedule. Our capacity to recruit and the capacity of the Soviet side to absorb a less optimum number of artistic programs would be inordinately strained. A delayed start would prevent the U. S. from making timely offerings and would jeopardize our ability to carry out the full schedule of performances provided in the agreement.

For the opening of Kiev, the supplemental includes start-up costs (educational, foreign transfer and temporary lodging allowances, household/office furniture, and appliances) which are not in the 1987 Agency budget request.

Educational exchanges, which are not scheduled to be expanded until 1987, would not be affected if the FY 1986 supplemental were not approved.

Questions Concerning Sequestration of Funds for the Judiciary For 1987 Submitted by Mr. Smith

SUPREME COURT OF THE UNITED STATES

Salaries and Expenses

Question. What would be the impact on the activities of the Court if the Court received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration with no adjustment for uncontrollable items?

Answer. The Supreme Court's FY 1986 appropriation before the sequestration was $15,000,000. The sequestration of $601,000 reduced the FY 1986 appropriation to $14,399,000. As a result of the improved planning required to operate within the reduced FY 1986 budget, we reevaluated our needs and reduced the FY 1987 request by $601,000, the amount sequestered in FY 1986. Therefore the revised FY 1987 request is for $14,631,000. If the Court received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration, the Court would receive $369,000 more than requested for FY 1987. Although not essential, these funds would be used to accelerate the schedule for replacing aging Data Systems equipment and to address any projects deferred as a result of the FY 1986 sequestration.

Question. If the Court received the same amounts in FY 1987 that it received in FY 1986 after sequestration, what would be the impact on its activities?

Answer. As Justice O'Connor has stated in her testimony, further reductions below the already reduced FY 1987 request would cause hardship and curtailment of necessary activities. The Court can not operate below the FY 1987 request of $14,631,000 because to do so would erode our ability to fund the necessary operations of the Court while at the same time keep up with the increased costs of inflation in contract rates and charges for services, supplies and equipment.

Question. What would be the impact on the Court if the Court received a percentage reduction 8.4 percent below the FY 1986 amount, adjusted for sequestration?

Answer. An 8.4 percent reduction below the FY 1986 amount, adjusted for sequestration, would have a devastating effect on the operations of the Court. Such a reduction would result in an appropriation of $13,189,000 which is $1.4 million less than the FY 1987 request, $1.2 million less than the FY 1986 amount adjusted for sequestration, and $392,000 less than the amount obligated in FY 1985. This would put the Court in a position of not being able to satisfactorily fund the most essential operations. Salaries, benefits, rent, printing, supplies, and equipment costs are largely fixed. To cut further is unrealistic. Specifically, the Court would be forced to reduce funding for library material; police staff would have to be reduced, which would in turn reduce to an unacceptable level the security of the building and its occupants; funding for the maintenance and replacement of aging

Data Systems Equipment would be reduced to a level which would threaten the reliability of the Court's automated systems, including opinion processing; an 8.4 percent reduction would also force an unrealistic delay in the printing of the Court's opinions which are already subject to undue delay.

Question. What action is the Court taking to consider these possibilities--have you formed a task force or done any contingency planning?

Answer. We have improved our budget planning by implementing a detailed Operating Plan process. Spending limitations are set for each organizational unit based on levels of responsibility, workload, and overall support needed to attain the goals of each. The Operating Plan provides a framework for funding the highest priority needs and as such, is an essential tool for decisions as resources become more limited. In addition, the Chief Justice has appointed a Budget Planning and Review Committee to be chaired by the Budget Officer with his personal participation. This Committee will assist in the overall budget planning of the Court, and will solicit and review specific ideas for savings in all areas of the budget from all Court employees. The Chief Justice will continue his practice since 1969 of personally passing on all significant non-routine expenditures.

Question. We are aware that the Public Printer, at the Government Printing Office (GPO), has certain initiatives to encourage Federal agencies to take maximum advantage of GPO commercial procurement contracts. Also, the new GPO electronic publishing procurements are now saving new substantial tax dollars. We would like to know what plans you may have to increase your reliance on GPO commercial procurements for both printing and electronic publishing.

Answer. The Supreme Court relies on GPO for the printing of the Court's opinions. The Court has requested specific information as to how production costs, turn-around time, and distribution would be affected if we were to make use of GPO commercial procurement contracts for all phases of production, including bindery, after receipt of the camera-ready copy produced by the Court's Publications Unit. GPO electronic publishing is not a concern of the Court since the Court performs its own electronic typesetting prior to submission of camera-ready copy to GPO. We are also exploring non-government printing at lower costs than GPO.

Supreme Court
Care of the Building and Grounds
Impact of FY 1987 Funding Levels

Question 1.	FY 1986 Appropriation before Sequestration	$2,275,000
	FY 1987 program need	-2,105,000
	Balance available for new project	$ 170,000
Question 2.	FY 1986 Appropriation after Sequestration	$2,177,000
	FY 1987 program need	-2,105,000
	Balance available for new project	$ 72,000
Question 3.	FY 1986 Appropriation after Sequestration	
	Less 8.4%	$ 1,994,000
	FY 1987 program need	-2,105,000
	Required program reductions	$- 111,000

1. **Question:** What would be the impact on the activities of the Court if the Court received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration with no adjustment for uncontrollable items?

   Response: The total fiscal year 1986 appropriation enacted to date before sequestration pursuant to P.L. 99-177 amounts to $2,275,000. The program need for fiscal year 1987, which includes all ongoing maintenance, cyclical maintenance items, equipment replacement and miscellaneous improvements amounts to $2,105,000, or $170,000 less than the fiscal year 1986 amount. Therefore, there would be no impact on ongoing activities. The request for installation of an emergency generator at a cost of $350,000 could not be wholly accommodated with the $170,000 difference between fiscal year 1986 and 1987 amounts, and the balance of $180,000 would have to be requested in fiscal year 1988. The attached table summarizes this response.

2. **Question:** If the Court received the same amounts in FY 1987 that it received in FY 1986 after sequestration, what would be the impact on its activities?

   Response: The total fiscal year 1986 appropriation enacted to date before sequestration pursuant to P.L. 99-177 amounts to $2,275,000. Following sequestration, this amount has been reduced to $2,177,000. The program need for fiscal 1987, as explained above, is $2,105,000 or $72,000 less that the fiscal year 1986 adjusted level. Therefore, there would be no impact on ongoing operations and the emergency generator work could begin in fiscal year 1987 but the balance of $278,000 would have to be requested in fiscal year 1988. The attached table summarizes this response.

3. **Question:** What would be the impact on the Court if the Court received a percentage reduction 8.4 percent below the FY 1986 amount, adjusted for sequestration?

   Response: If the amount available for fiscal year 1986 after sequestration is further reduced by 8.4%, then the proposed level for fiscal year 1987 would amount to $1,994,000. This is $111,000 less that the required need of $2,105 000 for fiscal year 1987, and would require personnel and program reductions. The average salary of employees, including benefits, under the Architect's jurisdiction at the Court is approximately $30,000; three to four vacancies during the year would provide sufficient savings to accommodate such a reduction. However, those vacancies would represent 9-12% of the Architect's total work force at the Court and would result in a drastic cutback in services. The attached table summarizes this response.

4. **Question:** What action is the Court taking to consider these possibilities -- have you formed a task force or done any contingency planning?

   Response: The Architect's staff responsible for operating the Court's structural and mechanical care program has worked closely with budget and administrative staff to monitor budget allocations and costs to ensure that operations do not exceed fiscal resources.

United States Court of Appeals for the Federal Circuit

1. What would be the impact on the activities of each agency in the Department if each agency received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration with no other adjustment for uncontrollable items?

The court would virtually close.

Having exercised the most stringent fiscal responsibility, the court staff is the smallest of any Court of Appeals. The resulting appropriation would leave some $2,000,000, which would require either the discharge of the entire staff or retention of 80% of the staff and the closing down of all communication, printing, and similar activities required for performance of the court's mission.

The court is not a "Department" and has no "agencies." The court is one unit and has but one activity: to administer justice in cases within its jurisdiction. The right to file cases is granted by statute to persons and government agencies and the court is without authority to turn away cases, i.e., to diminish its "activity." The impact on our "activity" of absorbing the adjustments to base and built-in changes, and foregoing any program changes, would be to require that the court allow the cases to simply pile up in the basement, and to increase the interval from filing to decision from the present seven months to an estimated three to five years.

2. If the Department received the same amounts in FY 1987 that it received in FY 1986 after sequestration, what would be the impact on the activities of each agency?

The impact would be even greater than that set forth above, and the interval from filing to decision would be further increased.

3. What would be the impact on each of the agencies in the Department if each were to have a percentage reduction in the range of 6.4% below the FY 86 amount, adjusted for sequestration?

The court would close, having been forced to discharge its entire staff of supporting personnel.

4. What action is the Department taking to consider these possibilities - have you formed a task force or done any contingency planning?

The task force is formed of the Chief Judge, the Clerk and the Administrative Services Officer, who are continuing to prepare the court's budget and administer its appropriation. Our 1987 budget request is already at the absolute minimal level necessary to accomplish the court's mission. If the 1987 appropriation is inadequate to allow the timely disposition of the court's cases, the result, as above indicated, will be either an extended delay in or cessation of the dispostion of cases.

United States Court of International Trade

QUESTION #1: What would be the impact on the activities of each agency in the Department if each agency received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER: The amount appropriated for FY 1987 would then be $6,498,000 which is $1,045,000 lower than the requested amount for FY 1987.

The major impact would be the court's inability to pay the 80% increase imposed by General Services Administration for rental of space.

QUESTION #2: If the Department received the same amounts in FY 1987 that it received in FY 1986 after sequestration, what would be the impact on the activities of each agency?

ANSWER: The amount appropriated for FY 1987 would then be [illegible] which is [illegible] lower than the requested amount for FY 1987.

The major impact would be the court's inability to pay the 80% increase imposed by General Services Administration for rental of space and the cost of replacing an active judge eligible to assume senior status who continues to function with assigned equipment, furniture and library.

QUESTION #3: What would be the impact on each of the agencies in the Department if each were to receive a percentage reduction of 8.4% below the FY 1986 amount, adjusted for sequestration?

ANSWER: The amount appropriated for FY 1987, with an 8.4% reduction below the FY 1986 amount, adjusted for sequestration, would then be $5,730,000 which is $1,816,000 lower than the amount requested for FY 1987.

The major impact would be a freeze in hiring new employees (except for judge's staff); inability to pay the 80% increase imposed by General Services Administration for rental of space; discontinue present policy as it relates to first-class travel by judges, except for physical disabilities; moratorium relating to procurement of furniture and furnishings, with the exception of newly-appointed judges; reduce the furniture allocation for new judges by 20%; curtail acquisition for chambers' libraries of judges; defer all non-essential tenant alterations; explore the possibility of billing other government units for space.

QUESTION #4: What action is the Department taking to consider these possibilities -- have you formed a task force or done any contingency planning?

ANSWER: The contingency planning is as described in answer number 3 above.

QUESTION #5: We are aware that the Public Printer, at the Government Printing Office, has certain initiatives to encourage Federal agencies to take maximum advantage of GPO commercial procurement contracts. Also, the new GPO electronic publishing procurements are now saving very substantial tax dollars. We would like to know what plans you may have to increase your reliance on GPO commercial procurments for both printing and electronic publishing.

ANSWER: We presently use, and will continue to use, the Public Printer, at the GPO, for our printing needs. We have no occasion to use them for electronic publishing.

Salaries of Judges

QUESTION:

What would be the impact on the Judiciary if each activity received the same amount for fiscal year 1987 that was appropriated for fiscal year 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Reduction

The budget authority for fiscal year 1986 was $104,779,000 which is $221,000 less than the $105,000,000 requested for fiscal year 1987.

Impact

If the projected level of circuit and district judgeship vacancies and of judges assuming senior status or resigning from office should materialize, the only option within the control of the Judiciary is to absorb the proposed reduction in this appropriation ($221,000) by deferring the appointment of bankruptcy judges. Since these positions are created by the Congress and bankruptcy judges are appointed for a term of 14 years, any future savings to be accomplished must be by attrition. Considering the substantial increase in bankruptcy case filings and the dire need for additional bankruptcy judgeships, which is a matter presently under consideration by the Congress, the denial of funds for the compensation and related benefits for bankruptcy judges will compound the present problem relating to the disposition of bankruptcy cases. The absence of bankruptcy judges has the following immediate impact:

1. the debtor is denied a chance for a fresh start in business life by not obtaining relief from liability of his debts;
2. orderly means are not available to liquidate assets which are not exempt from the creditors; and
3. financial rehabilitation of bankrupt individuals and failed businesses becomes unlikely.

QUESTION:

If the Judiciary received the same amount in fiscal year 1987 that it received in fiscal year 1986 after sequestration, what would be the impact on its activities?

ANSWER:

Reduction

The amount available in fiscal year 1986 after sequestration was $103,992,000 which is $1,008,000 less than the $105,000,000 requested in fiscal year 1987.

Impact

This reduction is equivalent to approximately 13 full-time bankruptcy judgeship positions. It is estimated that each judgeship handles approximately 25,000 cases with an estate value on the average of $1,250,000,000. As stated above, these positions are created by Congress and bankruptcy judges are appointed for a term of 14 years. Consequently, any future savings to be accomplished must be by attrition.

QUESTION:

What would be the impact on each of the activities in the Judiciary if each were given an 8.4 percent reduction below the fiscal year 1986 amount adjusted for sequestration?

ANSWER:

Reduction

The amount available in fiscal year 1987 after sequestration would fund the account at a level of $95,257,000 or $9,743,000 less than the $105,000,000 requested in fiscal year 1987.

Impact

The reduction of $9,743,000 would theoretically result in holding vacant 124 of the 232 authorized bankruptcy judgeship positions in 1987. However, by October 1, 1986 most of the 232 positions will be occupied by persons holding 14 year appointments which may only be terminated for "incompetence, misconduct, neglect of duty, physical or mental disability." Therefore, on October 1, 1986 we would be in technical violation of the Anti-deficiency Act.

One hundred and twenty-four judges would normally handle well over 236,000 cases with a total estate value estimated at $11 billion, affecting over 3 million creditors. This reduction would essentially bring the bankruptcy Judicial system to a halt, resulting in chaos in the commercial community.

Salaries of Supporting Personnel

QUESTION:

What would be the impact on the activities of the Judiciary if each activity received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Reduction

The appropriated budget authority for fiscal year 1986 was $489,598,000, which is $44,702,000 less than the $534,300,000 requested for fiscal year 1987.

The $44,702,000 reduction will preclude the Judiciary from filling the following new positions requested in fiscal year 1987: 7 magistrates and 30 magistrate support staff; 10 positions for circuit executives' offices; 12 central legal staff and 20 library positions; 35 systems administrators; 13 pro se law clerks; and 6 court interpreter positions. Due to the number of judges who will become eligible to take senior status during 1987, however, we must anticipate and provide for supporting personnel for these new senior judges. Therefore, an additional $1,385,000 to fund 30 supporting personnel positions will have to be absorbed in 1987.

Impact

The failure to fund the seven approved magistrate positions will have a direct impact upon the Article III judges who have requested such assistance, with a corresponding deleterious effect upon the dispensation of justice in the federal courts. This comes at a critical period when the caseload burden on Article III judges is great and continues to mount. Indeed, 17 additional judgeships would be required to reduce the per judgeship filings of these 7 courts to an acceptable level. The funding of the 7 magistrate positions to assist these judges would be a modest addition and would alleviate to some extent the caseload burden imposed upon them.

With regard to the court clerks' offices, this reduction will not allow for sufficient staff to adequately keep pace with the projected increased workload of the courts. For example, the total funding recommended will only provide for staffing the circuit, district and bankruptcy courts at 87 percent of their work measurement formulas. Similarly, the probation service will be staffed at only 87 percent of its formula allowance, despite indications of increasing workload and increased responsibilities under the Comprehensive Crime Control Act, which are not included in the current formula. This staff reduction will proportionately reduce the level of supervision given probationers and parolees.

By operating at 87 percent of formula, the clerks' offices would reduce services to the Bench, public and Bar. Senior judges may be restricted as to when they could schedule court because of the lack of available courtroom deputies. This would delay trials and the disposition of cases. The clerks' offices will reduce the number of hours available for the conduct of business with both the Bar and the public. The frequency of naturalization ceremonies and the admission of attorneys to practice in the Federal courts would be reduced. There would eventually be a slow down in the filing of documents in the case folders which would be counterproductive in that motions, etc., would need to be located before the case could go to trial.

QUESTION:

If the Judiciary received the same amounts in FY 1987 that it received in FY 1986 after sequestration, what would be the impact on each of the activities?

ANSWER:

Reduction

The amount available in fiscal year 1986 after sequestration was $469,177,000, which is $65,123,000 less than the $534,300,000 requested in fiscal year 1987.

Impact

The clerks' offices in the courts of appeals, district courts, and bankruptcy courts, considering the projected increases in civil, criminal, and bankruptcy case filings and appeals, will be staffed at approximately 81 percent of the formula allowance established by the Judicial Conference. The shortage of staff will result in a further reduction of services to the Bar and public, the elimination or deferral of discretionary functions in clerks' offices, and the growth of paperwork backlogs in some courts. It also may have an adverse impact on the processing and disposition of cases by the court.

Clerks' office personnel necessarily will be forced to put in extra hours for which they will not receive any additional compensation. (Court personnel are not entitled to overtime compensation as are the officers and employees in the Executive departments and agencies.) The courts also may have to terminate the employment of resident deputies in some divisional offices and/or pretermit regular sessions of court at such divisional offices which will inconvenience the Bar and the public.

Probation and pretrial services also will be staffed at approximately 81 percent of the formula allowance approved by the Conference considering the projected increases in their respective investigatory and supervisory work. Probation officers would be forced to reduce the level of supervision of probationers and charged offenders to unsupervised probation. Supervision of probationers and parolees would be curtailed drastically, abbreviated pre-sentence reports would be used in many more cases, and pretrial services would be virtually abandoned in most courts other than particularly serious felony cases, despite the Congressional mandate for such services.

Further reductions will be required with reference to the appointment of temporary secretaries and law clerks for judges and magistrates based on declared judicial emergencies as approved by the respective circuit councils.

QUESTION:

What would be the impact on each of the activities of the Judiciary if each were given an 8.4 percent reduction below the FY 1986 amount, adjusted for sequestration?

ANSWER:

Reduction

An 8.4 percent reduction from the 1986 amount as adjusted for sequestration will fund the account at a level of $429,766,000, or $104,534,000 less than the $534,300,000 requested in fical year 1987.

Impact

In addition to the two scenarios outlined above, a reduction of this magnitude could result in:

-- a staffing level of 70% of the work measurement formula in clerks' and probation offices;

-- judges not efficiently using their time in the absence of sufficient supporting personnel to handle case flow;

-- limited hours during which the clerk's office is open to the public and requirements that cases be filed through the mail;

-- reducing or eliminating responses to telephone inquiries from public and bar.

Defender Services

QUESTION:

What would be the impact on the activities of the Judiciary if each activity received the same amount for fiscal year 1987 that was appropriated for fiscal year 1986 before sequestration with no adjustments for uncontrollable items?

ANSWER:

Reduction

The budget authority for fiscal year 1986 is $70,074,000, which is $4,711,000 less than the $74,785,000 requested for fiscal year 1987.

Impact

The Judicial Conference approved several measures in fiscal year 1986 to effect savings in this appropriation in order to meet sequestration levels. These steps included: (1) a reduction by 10 percent of the amount billed by panel attorneys; (2) a shift in the assignment of cases from panel attorneys to Public and Community Defender organizations where cost effective; and (3) a reduction in rates for extra copies of transcripts furnished court-appointed attorneys in multi-defendant criminal cases. If these actions are continued into fiscal year 1987, the overall impact of this reduction in budget authority could be mitigated. The reduction in panel attorney rates alone on an annual basis would save approximately $3,973,000. The remaining $738,000 reduction could be offset by the reduction in rates charged for extra transcript copies and shifting cases from panel attorneys to public defender organizations.

QUESTION:

If the Judiciary received the same amount in fiscal year 1987 that it received in fiscal year 1986 after sequestration, what would be the impact on its activities?

ANSWER:

Reduction

The amount available in fiscal year 1986 after sequestration was $67,417,000, which is $7,368,000 less than the $74,785,000 requested in fiscal year 1987.

Impact

A reduction of $7,386,000 would:

-- eliminate funds necessary to provide representation for approximately 5,959 of the 59,700 individuals projected to be represented under the Criminal Justice Act during fiscal year 1987;

— require a further reduction in panel attorney rates which may have adverse effects on the quality of representation and may force judges to prevail upon attorneys to serve pro bono. It would appear that there is an inconsistency in that the Congress has under consideration a bill which will increase the rates of compensation for court-appointed attorneys.

-- require shifting the assignment of a larger number of cases from panel attorneys to Public and Community Defender organizations placing a larger burden on the limited resources of these offices;

QUESTION:

What would be the impact on each of the activities in the Judiciary if each activity were given an 8.4 percent reduction below the fiscal year 1986 amount, adjusted for sequestration?

ANSWER:

Reduction

An 8.4 percent reduction from the 1986 amount as adjusted for sequestration will fund the account at a level of $61,754,000 or $13,031,000 less than the $74,785,000 requested for fiscal year 1987.

Impact

In addition to the impact on Judicial activities described above, this level of reduction would:

-- eliminate funds necessary to provide representation for approximately 10,400 individuals, thus preventing the defender services program from meeting its constitutionally mandated responsibilities of providing adequate counsel to indigent criminal defendants as defined in the Criminal Justice Act, as amended;

-- lack of counsel will impair the timely processing of criminal trials as required under the Speedy Trial Act;

Fees of Jurors

QUESTION:

What would be the impact on the Judiciary if each activity received the same amount for fiscal year 1987 that was appropriated for fiscal year 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Reduction

The budget authority for fiscal year 1986 was $43,400,000 which is $4,800,000 less than the $48,200,000 requested for fiscal year 1987.

Impact

We have requested a supplemental appropriation for fiscal year 1986 in the amount of $3,800,000. If that supplemental is not approved, we may have no alternative but to suspend or defer civil jury trials during the last two months of the fiscal year.

As we see it, this is a non-discretionary program. Litigants cannot be denied their constitutional right to a jury trial. We have virtually no control over the number of grand juries that are convened at the request of United States attorneys. The Judicial Conference has denied jurors reimbursement for parking fees in an effort to reduce expenditures and it may be necessary to continue that practice in fiscal year 1987. Likewise it may be necessary to defer civil jury trials for a period of two months during fiscal year 1987. This would effect approximately 900 trials. The number of civil cases settling will greatly diminish because the majority of civil cases settle only when trial is imminent.

If a case cannot be heard for several years due to backlog or easy continuance policy, that case will most likely not settle for several years and will remain a pending action throughout that time. A heavy pending caseload generates much more work for the clerk's staff who will continue to process motions and paperwork throughout the life of the case, as well as for judges and their personnel who will most likely be holding more and more status conferences.

QUESTION:

If the Judiciary received the same amounts in fiscal year 1987 that it received in fiscal year 1986 after sequestration, what would be the impact on its activities?

ANSWER:

Reduction

The amount available in fiscal year 1986 after sequestration was $41,534,000 which is $6,666,000 less than the $48,200,000 requested in fiscal year 1987.

Impact

In addition to the impact described above, this level of reduction may require extending the moratorium of civil jury trials to 3 months which would delay approximately 1,400 trials.

QUESTION:

What would be the impact on each of the activities in the Judiciary if each were given an 8.4 percent reduction below the fiscal year 1986 amount, adjusted for sequestration?

ANSWER:

Reduction

An 8.4 percent reduction from the 1986 amount as adjusted for sequestration will fund the account at a level of $38,045,000 or $10,155,000 less than the $48,200,000 requested in fiscal year 1987.

Impact

A reduction of this size could be offset by extending the moratorium of civil jury trials to 5 months which would defer approximately 2,400 trials. It should be noted that approximately 92 percent all of civil cases settle prior to trial, but that many of these settlements do not take place until the trial becomes imminent. Consequently, the effect of deferring trials will impact also on settlements, thereby contributing further to a rapidly growing case backload.

Expenses of Operation and Maintenance of the Courts

QUESTION:

What would be the impact on the Judiciary if each activity received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Reduction

The budget authority for fiscal year 1986 was $135,000,000 which is $25,500,000 less than the $160,500,000 requested in fiscal year 1987. The 1986 appropriation was reduced by $10,000,000 in the form of a transfer to Salaries of Supporting Personnel by effecting savings mandated by the Judicial Conference. These savings included deferrals of equipment replacement, word processing equipment, data processing equipment, furniture procurement, and lawbook acquisition which will be required in 1987.

Impact

- The Drug Dependent Offenders program, which screens probationers and parolees for drug usage, would be frozen at the current level in the face of rapidly growing caseloads. Curtailment of the drug aftercare program would be counterproductive because defendants eligible for release under the program would remain incarcerated at substantially greater cost to the taxpayers.

- Expansion of automated systems in the circuit and district courts would be frozen at the 1986 level which will severely hamper efforts to replace the aging and costly central mainframe computers in Washington, D.C. The reduction will also delay transfer from the Federal Judicial Center of more sophisticated civil and bankruptcy systems for use in the courts and restrict expansion of operational systems to additional courts such as jury, financial and appellate systems. The freezing of automation efforts will mandate the continuance of many inefficient and outdated manual systems in the clerks' offices. Coupled with the severe shortage of personnel in these offices, a decline in productivity in clerks' offices should be expected.

- The Court Interpreter program would have to be frozen at its current level. Increased costs of interpreter services are uncontrollable in that interpreters are required pursuant to the Court Interpreters Act, Public Law 95-539.

- New furniture would not be available for the 237,250 square feet of space scheduled to undergo alteration and remodeling at the following 15 locations:

Location	Square Feet
New York, Hauppauge	19,200
New York, Buffalo	14,820
Virginia, Richmond	6,000
Virginia, Roanoke	8,800
Virginia, Abingdon	7,100
West Virginia, Charleston	14,000
Louisiana, Lafayette	7,000
Texas, Sherman	5,000
Texas, Tyler	5,800
Ohio, Columbus	5,000
Illinois, East St. Louis	21,485
Illinois, Peoria	7,900
Indiana, Fort Wayne	8,300
Missouri, St. Louis	24,322
Arkansas, Little Rock	29,500
California, Los Angeles	13,360
Washington, Seattle	26,383
Washington, Tacoma	13,310
Total	237,280

Travel restrictions mandated by the Judicial Conference will, in all likelihood, continue. These include prohibiting the holding of conferences, meetings, and workshops which require intra-circuit travel; restricting to two persons the staff that may accompany a circuit or district judge on intra-circuit assignments; and requiring use of only one car for same-day travel.

QUESTION:

If the Judiciary received the same amount in FY 1987 that it received in FY 1986 after sequestration, what would be the impact on its activities?

ANSWER:

[illegible]

[illegible]

[illegible]

[illegible]

QUESTION:

What would be the impact on each of the activities in the Judiciary if each were given an 8.4 percent reduction below the FY 1986 amount, adjusted for sequestration?

ANSWER:

Reduction

An 8.4 percent reduction from the 1986 amount as adjusted for sequestration will fund the account at a level of $118,343,000, or $42,157,000 less than the $160,500,000 requested in fiscal year 1987.

Impact

In addition to the impact described above, this level of reduction would result in the following:

-- fewer funds for travel would eliminate holding court in some outlying locations making courts less accessible to the public;

-- freezing automation in the courts at the 1986 level will leave some courts with manual systems and others only partially automated;

-- the partial moratorium on purchase of replacement furniture would be extended for a third year;

-- the normal replacement cycle on all equipment would be abandoned;

-- only emergency replacement of inoperable equipment would be authorized.

Space and Facilities

QUESTION:

What would be the impact on the Judiciary if each activity received the same amount for fiscal year 1987 that was appropriated for fiscal year 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Reduction

The budget authority for fiscal year 1986 was $148,996,000 which is $33,204,000 less than the $182,200,000 requested for fiscal year 1987.

Impact

Based on information we have received from the General Services Administration, charges for the rental of court facilities will increase by $26,705,000. The amount available does not include any funds for the increased rental charges.

In fiscal year 1986, we defered tenant alterations in the amount of $7,000,000 which will, of course, place a greater burden on us in fiscal year 1987. The only alternative for the reduction of expenditures in this account would be to abandon court facilities, despite the obligation to hold court at those places designated by the Congress. If we do not reimburse the General Services Administration to the full extent of their billings, conceivably this may present a problem with respect to their Federal Buildings Fund.

QUESTION:

If the Judiciary received the same amounts in fiscal year 1987 that it received in fiscal year 1986 after sequestration, what would be the impact on its activities?

ANSWER:

Reduction

The amount available in fiscal year 1986 after sequestration was $142,675,000 which is $39,525,000 less than the $182,200,000 requested for fiscal year 1987.

Impact

-- The Judiciary SLUC would remain unpaid for the equivalent of 2.6 months rent or rent on court facilities in 24 medium size districts would go unpaid for the year.

QUESTION:

What would be the impact on each of the activities in the Judiciary if each were given an 8.4 percent reduction below the fiscal year 1986 amount, adjusted for sequestration?

ANSWER:

An 8.4 percent reduction from the 1986 amount as adjusted for sequestration will fund the account at a level of $130,690,000 or $51,510,000 less than the $182,200,000 requested in fiscal year 1987.

-- The Judiciary SLUC would remain unpaid for the equivalent of 3.5 months rent or rent on court facilities in 32 medium size districts would go unpaid for a year.

Court Security

QUESTION:

What would be the impact on the activities of the Judiciary if each activity received the same amount for fiscal year 1987 that was appropriated for fiscal year 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Reduction

The budget authority for fiscal year 1986 was $33,193,000, which is $6,757,000 less than the $39,950,000 requested for fiscal year 1987.

Impact

At this funding level the program in fiscal year 1987 would essentially operate at the 1986 level. All planned program expansion, including funding the first year of our two-year proposal to fully implement the district courts' security plans by the end of fiscal year 1988 would be deferred indefinitely.

QUESTION:

If the Judiciary received the same amounts in fiscal year 1987 that it received in fiscal year 1986 after sequestration, what would be the impact on the activities of the Judiciary?

ANSWER:

Reduction

The amount available in fiscal year 1986 after sequestration was $31,785,000, which is $8,165,000 less than the $39,950,000 requested in fiscal year 1987.

Impact

The level of reduction would preclude filling the additional positions which were approved in 1986 and replacing outdated security systems with equipment utilizing the most current technology.

QUESTION:

What would be the impact on each of the activities in the Judiciary if each activity were **given an** 8.4 percent reduction below the fiscal year 1986 amount, adjusted for **sequestration**?

ANSWER:

Reduction

An 8.4 percent reduction from the 1986 amount as adjusted for sequestration will fund the account at a level of $29,115,000 or $10,835,000 less than the $39,950,000 requested in fiscal year 1987.

Impact

In addition to the impact on the Judiciary's activities as described above, the level of reduction would:

-- require a reduction of 260 contract guard positions below the number requested by the court security committees for fiscal year 1987;

-- eliminate the purchase of any new security systems and equipment.

— A reduction of this magnitude in security resources is courting disaster when the potential for violence and intimidation is so prominent on the national scene. Judges need to know that the judicial process can proceed in a climate free from the apprehension and intimidation of disorder and violence. The courts now function in an environment of increased threats against judges and judicial proceedings. It makes no sense to reduce security resources for the courts when the threats against all our institutions are real and increasing and other branches of government are dramatically enhancing their security.

Administrative Office of the United States Courts

QUESTION:

What would be the impact on the activities of each agency in the Judiciary if each agency received the same amount for fiscal year 1987 that was appropriated for fiscal year 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Reduction

The budget authority for fiscal year 1986 was $29,652,000, inclusive of the unobligated balance carried forward from 1985, which is $2,448,000 less than the amount requested for 1987.

Impact

The $2,448,000 reduction would not allow the filling of any of the 34 positions requested. In addition, all inflationary increases and other uncontrollable "adjustments to the base," such as increased social security taxes, would have to be absorbed.

Not receiving any of the positions requested for the Office of Audit and Review will curtail cyclical financial audits, extending the cycle from the current two years to three years.

Denial of the positions requested for the Systems Services Division will defer the implementation of the program to decentralize computer operations. The aged central computers in Washington, D.C. now cost almost $1 million per year just to maintain and 70 courts currently rely on the central computers to process data and to produce case management reports.

QUESTION:

If the Judiciary received the same amounts in fiscal year 1987 that it received in fiscal year 1986 after sequestration, what would be the impact on the activities of the Judiciary?

ANSWER:

Reduction

The amount available after sequestration was $28,396,000 which is $3,704,000 less than the $32,100,000 requested in fiscal year 1987.

Impact

In addition to the impact on the Administrative Office activities described above, this level of funding would:

-- postpone the replacement of inefficient automated systems, hardware and software, in both the Administrative Office and courts;

-- further expand the cycles or periods of time between which the auditors can visit the courts;

-- seriously diminish the effectiveness of the Administrative Office in assisting courts with frequent & critical space problems;

-- require that steps taken to meet the 1986 sequestration such as restrictions on awards, training, travel, contracts, tenant alterations, furniture and equipment, would necessarily continue to remain in force.

QUESTION:

What would be the impact on each of the activities in the Judiciary if each were given a percentage reduction of 8.4 percent below the fiscal year 1986 amount, adjusted for sequestration?

ANSWER:

Reduction

An 8.4 percent reduction from the 1986 amount as adjusted for sequestration will fund the Administrative Office at a level of $26,011,000 or $6,089,000 less than the $32,100,000 requested.

Impact

In addition to the impact described above, funding at this level would require that:

-- all employees will be furloughed for 5 days and promotions would be indefinitely deferred;

-- travel will be reduced by 50 percent and personnel by 24 positions, thus further curtailing audits, installation of computers in the courts, and management and other assistance programs to the courts;

-- if the aged central computer systems completely fail, there would be no funds available for replacement, thereby terminating automated services to 70 courts;

QUESTION:

We are aware that the Public Printer, at the Government Printing Office, has certain initiatives to encourage Federal agencies to take maximum advantage of GPO commercial procurement contracts. Also, the new GPO electronic publishing procurements are now saving very substantial tax dollars. We would like to know what plans you may have to increase your reliance on GPO commercial procurements for both printing and electronic publishing.

ANSWER:

We have been very much aware of most of the GPO initiatives and we are increasing our reliance on GPO commercial procurement. While our in-house production remains at last year's level, we have printed at GPO 50% more orders up to this point in fiscal year 1986 than we did in a similar period in fiscal year 1985. All publications (pamphlets, booklets, etc.) are now being printed by the GPO.

Relative to electronic publishing, we are starting to use GPO facilities to convert word processing disks to fully formatted material. We plan to expand this system to all publications that are now produced on word processors.

We plan to keep our facility operating at approximately the same level but have GPO pick up on the steadily increasing workload in printing.

All of this has been outlined in our printing plan which we submitted to the Joint Committee on Printing in the first week of January except at that time we were not fully aware of the electronic publishing capability at our disposal.

April 1, 1986

Response of the Federal Judicial Center To Questions Posed by the House Appropriations Subcommittee on the Departments of State Justice, Commerce, the Judiciary and Related Agencies

Question 1. What would be the impact on the activities of each agency in the Department if each agency received the same amount for FY 1987 that was appropriated for FY 1986 before sequestration with no other adjustment for uncontrollable items?

Answer: Even the relatively modest reduction that would result from limiting fiscal 1987 spending to the amount appropriated in fiscal 1986 before sequestration would have an impact on the Judicial Center's programs. It may be helpful briefly to place the Center's fiscal situation in perspective.

A study recently completed by the Administrative Office shows that in the federal judicial system, the Center's appropriation is the only one that has not kept pace with inflation over the past ten years; indeed, our budget has increased at a rate of less than half the rate of inflation. During that ten-year period, our budget authority increased by 46.2 percent while inflation increased 96 percent. Thus, the Center has less real spending authority today than it had a decade ago.

We like to think, and have good reason to believe, that during this period our services to the judiciary have substantially increased. Not only have the nature and variety of our programs increased, but there has been a substantial increase in the number of people whom we serve--an important element when one considers the Center's responsibility to provide education to all third branch personnel.

The exact policy choices to be made in meeting any spending reductions mandated by the Congress would be one for the Center Board. Of course, we would provide alternative policy choices to the Board for consideration. Thus, it is not possible to speak definitively until the Board has acted. However, what follows is our best thinking on how the reductions might be allocated.

Since such a large portion of our budget represents a paper transfer of funds to the General Services Administration for building rent, much of it for our use of government-owned buildings, we would propose that our rent payments to GSA in fiscal 1987 be held to fiscal 1986 levels. Such action would save approximately $90,000. As are other agencies, the Center is but the unwilling messenger of GSA's annual increases, increases which we do not support and are unable to justify.

If the foregoing is not possible, we would propose reducing our court employee tuition support program by approximately $113,000. This action would deny support to many court employees who now improve their work skills and their productivity by taking job-related courses at local institutions. The average cost of these courses is approximately $108. Unfortunately, this action would also reduce the funds available to support extremely important activities such as the attendance of federal public defenders at trial skills and trial advocacy courses, training that is required if federal public defenders are to maintain anything approaching training parity with personnel of the Department of Justice.

Question 2. If the Department received the same amounts in FY 1987 that it received in FY 1986 after sequestration, what would be the impact on the activities of each agency?

Answer: In this answer and those that follow we incorporate the comments contained in the preceding answer concerning the role of the Center Board in deciding how reductions would be allocated. What follows is our best thinking about how the reductions might be achieved.

First, we would propose the termination of our ongoing project to examine information flow in judges' chambers, designed to determine how technology might improve a judge's ability to manage and make use of that information. We realize that in this time of increased filings, increased judge productivity, and ever increasing demands on judges' time, this project is one with a high payoff potential. Nonetheless, if substantial budget cuts are mandated by the Congress, distasteful choices must be made.

Second, we would propose a substantial reduction in Center-sponsored training for support personnel even though we recognize that, in the long run, such action may cost the government much more than it saves in the short run. We recognize that these training reductions would come at a time when existing judicial employees are being asked to do more than ever before. For example, one of the effects of sequestration in fiscal 1986 was to reduce district and appellate court staffing to 94 percent of that justified by the national staffing formulae. Under the situation posed in the question, this reduced staffing would continue in fiscal 1987. However, as with the preceding proposal, we realize that mandated reductions must be achieved and that to do so we must of necessity cut into the "bone." There simply is no "fat" whatsoever in our programs.

Necessarily included in the proposed reduction in Center-sponsored training would be a limited number of courses such as juror management workshops which demonstrably save far more than they cost. Indeed, partially as a result of our training efforts in this important area of citizen involvement in our judicial system, jury utilization has been steadily improving over the last few years.

Additionally, we would propose indefinite deferral of the development of the bankruptcy court automation project (BANCAP). (Recall that this project was already deferred six months as the result of sequestration in fiscal 1986 even though the bankruptcy courts' need for automated support is acute.) The financial reductions that would result from the action described in the question would require us to release most of the temporary technical personnel added to meet our increased development responsibilities described in the judiciary's Five-Year Plan for Automation in the United States Courts.

Finally, we would propose deferral of the descriptive study series undertaken by our Research Division. These relatively low-cost studies have been extremely effective in distributing information on new time saving techniques and procedures, and new programs involving, for example, alternative dispute resolution, which serve to reduce the number of civil trials.

Question 3. What would be the impact on each of the agencies in the Judiciary if each were to receive a percentage reduction of 8.4 percent below the FY 1986 amount, adjusted for sequestration?

Answer: The impact of a budget reduction of this magnitude would seriously disrupt the activities of the Federal Judicial Center. As noted above, during the past decade the Center's budget has not even kept pace with inflation, and there is no "fat" in our budget. A reduction of 8.4 percent below the fiscal 1986 amounts, adjusted for sequestration, would require major program readjustments.

First, we would propose terminating all development and support for any automated systems other than New Aims and one other records replacement system. (We expect New Aims will have transferred to the Administrative Office before the start of fiscal 1987, but the Judicial Center may retain certain training and support responsibilities.) Without doubt, we would be forced to terminate the employment of all temporary employees, including those working on automated development projects. As a result, our development schedule for the records replacement system to be continued would probably have to be extended.

Also, it seems clear that we would be forced to propose serious cuts in our educational programs even though, as previously noted, we recognize that these programs save the government more than they cost.

Finally, we would be forced to recommend curtailment of our research efforts which, even at present, are modest by any standard. Over the years our research has demonstrably improved the ability of courts to deal with ever increasing caseloads.

Question 4. What action is the Department taking to consider these possibilities--have you formed a task force or done any contingency planning?

Answer: Top Center management has considered and examined, and continues to consider and examine, the range of contingencies involved in the current budget crisis. With only 94 permanent employees, our agency is far too small to form a special task force for this purpose.

All options and contingencies will ultimately be presented to the Center's Board, chaired by the Chief Justice of the United States, for final decision.

Question 5. We are aware that the Public Printer, at the Government Printing Office, has certain initiatives to encourage Federal agencies to take maximum advantage of GPO commercial procurement contracts. Also, the new GPO electronic publishing procurements are now saving very substantial tax dollars. We would like to know what plans you may have to increase your reliance on GPO commercial procurements for both printing and electronic publishing.

Answer: At present the Federal Judicial Center makes full and complete use of GPO, and we will continue to do so. Indeed, except for our modest use of Prison Industries for minor printing jobs, all Center printing is completed by, or under arrangements made by, the Public Printer. The Center has been taking advantage of GPO electronic publishing alternatives wherever appropriate and will continue to do so.

United States Sentencing Commission

QUESTION:

What would be the impact on the activities of the Judiciary if each activity received the same amount for fiscal year 1987 that was appropriated for fiscal year 1986 before sequestration with no other adjustment for uncontrollable items?

ANSWER:

Only $1,100,000 of the $3,450,000 appropriated for the start up of the United States Sentencing Commission was appropriated in fiscal year 1986 with the remainder of the funds coming from the fiscal year 1985 appropriation. The first year of fully staffed operation of the Sentencing Commission will be fiscal year 1987 which will require an appropriation of approximately $6,000,000. We could not fulfill the Congressional mandate to submit sentencing guidelines by April 1987 without a fully staffed Commission.

QUESTION:

If the Judiciary received the same amounts for fiscal year 1987 that it received in fiscal year 1986 after sequestration, what would be the impact on each of the activities?

ANSWER:

Because a relatively small amount of the Commission's start up funds was appropriated in fiscal year 1986, only $47,000 was sequestered. As with the fiscal year 1986 appropriation amount before sequestration, we could not fulfill the mandate to submit guidelines without a fully staffed Commission.

QUESTION:

What would be the impact on each of the agencies in the Judiciary if each were to receive an 8.4 percent reduction below the fiscal year 1986 amount, adjusted for sequestration?

ANSWER:

We could not fulfill the Congressional mandate.

QUESTION:

What action is the Judiciary taking to consider these possibilities? Have you formed a task force or done any contingency planning?

ANSWER:

It is clear that the task of developing guidelines within the limited time available will consume all of the resources of the Commission. Since that is the overriding goal of the Commission, we have not diverted any of our existing resources to plan for a scenario that would not enable us to fulfill our mandate.

QUESTION:

What action is the Judiciary taking to consider these possibilities? Have you formed a task force or done any contingency planning?

ANSWER:

On March 12-13, 1986, the Judicial Conference of the United States approved actions recommended by its Executive Committee to meet the fiscal year 1986 reductions required by the Gramm-Rudman-Hollings Act. Some of these actions could be extended into fiscal year 1987. However, the Judiciary has not established any mechanism to consider alternatives for operating at less than full funding in fiscal year 1987.

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04/14/86

FISCAL YEAR 1987
The Judiciary

Comparative Statement of Possible Budget Levels
Dollars in Thousands

	Budget Requests FY 1987	FY 1986 Budget Authority	FY 1986 Bud. Auth. Post Sequestration	FY 1986 Bud. Auth. Post Seques. with 8.4% Reduction	FY 1987 Bud. and 1986 Bud. Auth. Difference	FY 1987 Bud. and 1986 Post Seq. B.A. Difference	FY 1987 Budget Request and 8.4% Reduction Difference
Supreme Court							
Salaries & Expenses	$15,232	$15,000	$14,399	$13,189	($232)	($833)	($2,043)
Care of Building & Grounds	2,455	2,275	2,177	1,994	(180)	(278)	(461)
Total, Supreme Court	17,687	17,275	16,576	15,184	(412)	(1,111)	(2,503)
Court of Appeals, Federal Circuit	7,290	5,500	5,309	4,863	(1,790)	(1,981)	(2,427)
Court of International Trade	7,546	6,498	6,255	5,730	(1,048)	(1,291)	(1,816)
Courts of Appeals, District Courts, Other Jud.Services							
Salaries Of Judges	105,000	104,779	103,992	96,257	(221)	(1,008)	(9,743)
Salaries, Supporting Personnel	534,300	489,598	469,177	429,766	(44,702)	(65,123)	(104,534)
Defender Services	74,786	70,074	67,417	61,754	(4,711)	(7,368)	(13,031)
Fees of Jurors	48,200	43,400	41,534	38,045	(4,800)	(6,666)	(10,155)
'Operation & Maintenance of the Courts	160,500	135,000	129,196	118,343	(25,500)	(31,305)	(42,157)
Space & Facilities	182,200	148,996	142,675	130,690	(33,204)	(39,525)	(51,510)
Court Security	39,960	33,193	31,785	29,115	(6,757)	(8,165)	(10,835)
SUBTOTAL	1,144,935	1,025,040	9[illegible],775	902,970	(119,896)	(159,160)	(241,965)
Administrative Office, U.S. Courts	32,100	29,652	28,396	26,011	(2,448)	(3,704)	(6,089)
Federal Judicial Center	10,226	9,600	9,187	8,415	(626)	(1,039)	(1,811)
Bicentennial Expenses, the Judiciary	1,500				(1,500)	(1,500)	(1,500)
TOTAL, THE JUDICIARY	$1,221,284	$1,093,565	$1,061,498	$963,172	($127,719)	($169,786)	($258,112)

1. Includes carryover from fiscal year 1986, does not include program supplemental for Supreme Court, Care of Building and Grounds, Bankruptcy deputy clerks, or Fees of Jurors. Also excludes $12,000,000 in proposed supplemental transfer to Supporting Personnel; of which $10,000,000 is from Operation and Maintenance of the Courts and $2,000,000 from Salaries of Judges

2. Excludes $6,500,000 for the U.S. Sentencing Commission